(*2*) Irrespective of the provision in sub-section (*1*), a branch of a banking company or co-operative bank, may also make the repayment by crediting such loan or deposit to the savings bank account or current account, if any, with such branch of the person to whom such loan or deposit has to be repaid.

(*3*) Sub-section (*1*) shall not apply to repayment of any loan, deposit, or specified advance taken or accepted from—

(*a*) Government;

(*b*) any banking company, post office savings bank, or co-operative bank;

(*c*) any corporation established by a Central, State, or Provincial Act;

(*d*) any Government company as defined in section 2 (*45*) of the Companies Act, 2013; 18 of 2013.

(*e*) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(*4*) In sub-section (*1*), "two lakh rupees" shall be substituted for "twenty thousand rupees" in the case of any deposit or loan where—

(*a*) such deposit is paid to a member by a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or

(*b*) such loan is repaid by a member to a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

(*5*) In this section, "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.

Interpretation.

189. In this Chapter, unless the context otherwise requires,—

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

(*b*) "primary agricultural credit society", and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 149(*6*);

(*c*) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place;

(*d*) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

CHAPTER XIII

DETERMINATION OF TAX IN SPECIAL CASES

A.—Determination of tax in certain special cases

Determination of tax where total income includes income on which no tax is payable.

190. Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.

Tax on accumulated balance of recognised provident fund.

191. Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable, the Assessing Officer shall calculate the total of the various sums of tax as per the provisions of paragraph 9 thereof.

Tax in case of block assessment of search cases.

192. (*1*) The total income of the block period, determined under section 294 shall be chargeable to tax at the rate of 60%.

(*2*) The tax chargeable under sub-section (*1*) shall be increased by a surcharge, if any, levied by any Central Act.

Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

193. (*1*) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes income specified in column B of the Table below, the income-tax payable shall be the aggregate of income-tax specified in the column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued as per such Employees' Stock Option Scheme as the Central Government may, by notification, specify in this behalf and purchased by him in foreign currency.	10%
2.	Income from long-term capital gains arising from the transfer of Global Depository Receipts referred to in serial number 1.	12.5%
3.	Total income as reduced by income referred to in serial numbers 1 and 2.	Income-tax chargeable on such income

(*2*) Where the gross total income of the resident employee—

(*a*) consists only of income by way of dividends in respect of Global Depository Receipts referred to in sub-section (*1*)(Table: Sl. No. 1), no deduction shall be allowed to him under any other provision of this Act;

(*b*) includes any income referred to in sub-section (*1*)(Table: Sl. No. 1) and (Table: Sl. No. 2),—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(*3*) The section 72(*6*) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in sub-section (*1*)(Table: Sl. No. 2).

(*4*) In this section,—

(*a*) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of,—

(*i*) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(*ii*) foreign currency convertible bonds of issuing company;

(*iii*) ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre;

(*b*) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(*c*) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(*d*) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company;

(*e*) "specified knowledge based industry or service" means—

(*i*) information technology software;

(*ii*) information technology service;

(*iii*) entertainment service;

(*iv*) pharmaceutical industry;

(*v*) bio-technology industry; and

(*vi*) any other industry or service, as specified by the Central Government, by notification; and

(*f*) "subsidiary" shall have the same meaning as assigned to it in section 2(*87*) of the Companies Act, 2013 and includes subsidiary incorporated outside India. 18 of 2013.

Tax on certain incomes.

194. (*1*) Irrespective of anything contained in any other provision of this Act, where the total income of an assessee as mentioned in column B of the Table below, includes income of the nature specified in column C of the said Table, the income-tax payable by such assessee, for a tax year, shall be the aggregate of—

(*a*) income-tax calculated on income mentioned in column C, at the rate mentioned in column D, subject to the conditions specified in the Notes relating to the respective serial number; and

(*b*) income-tax with which the assessee would have been chargeable had his total income been reduced by income mentioned in column C thereof.

Table

Sl.No.	Assessee	Income	Rate of tax	Conditions
A	B	C	D	E
1.	Any person.	Winnings (other than from any online game) from— (*a*) lottery; or (*b*) crossword puzzle; or (*c*) race including horse race (not being income from the activity of owning and maintaining race horses); or (*d*) card game and other game of any sort; or (*e*) gambling or betting of any form or nature.	30%	*Nil*.
2.	A person, resident in India and who is a patentee (herein referred to as an eligible assessee).	Royalty in respect of a patent developed and registered in India.	10%	(*a*) No deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in column C; (*b*) an option for taxation of income by way of royalty in respect of a patent developed and registered in India is exercised in the prescribed manner, on or before the due date specified under section 263(*1*) for furnishing the return of income for the relevant tax year; (*c*) where an option is exercised under clause (*b*) and the eligible assessee

A	B	C	D	E
				does not offer its income for taxation as per the provisions of columns C and D for any of the five tax years, succeeding such tax year, then such assessee shall not be eligible to claim the benefit of the provisions of columns C and D for five tax years subsequent to the tax year in which such income has not been offered to tax as per such provisions.
3.	Any person.	Income by way of transfer of carbon credits.	10%	No deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to column C.
4.	Any person.	Any income from the transfer of any virtual digital asset.	30%	(*a*) No deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in column C; and (*b*) no set off of loss from transfer of the virtual digital asset computed herein shall be allowed against income computed under any provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding tax years.

A	B	C	D	E
5.	Any person.	Any income by way of net winnings from any online game, computed in the manner, as prescribed.	30%	*Nil*.
6.	Any person.	Any profits and gains from life insurance business.	12.5%	*Nil*.

(*2*) In this section,—

(*a*) "carbon credit", in respect of one unit, means reduction of one tonne of carbon dioxide emissions or emission of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price;

(*b*) "computer resource" shall have the same meaning as assigned to it in section 2(*1*)(*k*) of the Information Technology Act, 2000; 21 of 2000.

(*c*) "developed" means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (herein referred to as the Patents Act); 39 of 1970.

(*d*) "horse race" shall have the meaning assigned to it in section 115;

(*e*) "internet" means the combination of computer facilities and electromagnetic transmission media including related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;

(*f*) "invention" shall have the same meaning as assigned to it in section 2(*1*)(*j*) of the Patents Act;

(*g*) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(*h*) "online game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device;

(*i*) "patent" shall have the meaning assigned to it in section 2(*1*)(*m*) of the Patents Act;

(*j*) "patented article" and "patented process" shall have the meanings as respectively assigned to them in section 2(*1*)(*o*) of the Patents Act;

(*k*) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, as per the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(*l*) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

(*i*) transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) imparting of any information concerning the working of, or the use of, a patent; or

(*iii*) use of any patent; or

(*iv*) rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*);

(*m*) "true and first inventor" shall have the same meaning as assigned to it in section 2(*1*)(*y*) of the Patents Act; and

(*n*) for the purposes of sub-section (*1*)(Table: Sl. No. 4), the term "transfer" as defined in section 2(*109*), shall apply to any virtual digital asset, whether capital asset or not.

Tax on income referred to in section 102 or 103 or 104 or 105.

195. (*1*) Where the total income of an assessee—

(*a*) includes any income referred to in section 102 or 103 or 104 or 105 or 106 and reflected in the return of income furnished under section 263; or

(*b*) determined by the Assessing Officer includes any income referred to in any of the said sections, if such income is not covered under clause (*a*),

the income-tax payable shall be the aggregate of—

(*i*) income-tax calculated on the income referred to in clauses (*a*) and (*b*), at the rate of 60%; and

(*ii*) income-tax with which the assessee would have been chargeable had his total income been reduced by income referred to in clause (*i*).

(*2*) Irrespective of anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in sub-section (*1*)(*a*) and (*b*).

B.—Special provisions relating to tax on capital gains

Tax on short-term capital gains in certain cases.

196. (*1*) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset—

(*a*) being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust; and

(*b*) the transaction of sale of such equity share or unit is chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004, then,

23 of 2004.

the tax payable by the assessee on the total income, subject to the provisions of sub-section (*2*), shall be the aggregate of—

(*i*) income-tax calculated on such short-term capital gains at the rate of 20%;

(*ii*) income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee.

(*2*) In the case of an individual or a Hindu undivided family, being a resident, where the total income, as reduced by short-term capital gains computed under sub-section (*1*), is below the maximum amount which is not chargeable to income-tax, then,—

(*a*) such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such short-term capital gains shall be computed at the rate as applicable in sub-section (*1*)(*i*).

(*3*) The provisions of sub-section (*1*)(*b*) shall not apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

(*4*) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section (*1*), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(*5*) In this section, "equity oriented fund" shall have the meaning assigned to it in section 198.

Tax on long-term capital gains.

197. (*1*) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income, subject to sub-sections (*2*) and (*3*), shall be the aggregate of—

(*a*) income-tax payable on the total income as reduced by such long-term capital gains, had the total income, as so reduced, been his total income; and

(*b*) income-tax calculated on such long-term capital gains at the rate of 12.5%.

(*2*) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (*1*) is below the maximum amount which is not chargeable to income-tax, then,—

(*a*) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such long-term capital gains shall be computed at the rate as referred in sub-section (*1*).

(*3*) In the case of an individual or a Hindu undivided family, being a resident, in the case of transfer of a long-term capital asset, being land or building, or both, which is acquired before the 23rd July, 2024, the excess income-tax computed as per the following formula shall be ignored:—

$$E = A - B$$

where—

E = excess income-tax to be ignored;

A = income-tax computed under clause (*b*) of sub-section (*1*);

B = income-tax computed under clause (*b*) of sub-section (*1*) taking the rate as 20% and the capital gains is computed by taking the cost of acquisition as indexed cost of acquisition and the cost of improvement as indexed cost of improvement.

(*4*) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(*5*) In this section,—

(*a*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*b*) "listed securities" means the securities which are listed on any recognised stock exchange in India;

(*c*) "unlisted securities" means securities other than listed securities;

(*d*) "indexed cost of acquisition" and "indexed cost of improvement" shall have the meanings respectively assigned to them in section 72.

Tax on long-term capital gains in certain cases.

198. (*1*) Irrespective of anything contained in section 197, the tax payable by an assessee on his total income shall be determined as per the provisions of sub-section (*2*), if—

(*a*) the total income includes any income chargeable under the head "Capital gains";

(*b*) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(*c*) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 has— 23 of 2004.

(*i*) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or

(*ii*) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(*2*) The tax payable by the assessee on the total income referred to in sub-section (*1*) shall be the aggregate of—

(*a*) income-tax calculated on such long-term capital gains exceeding one lakh twenty five thousand rupees on long-term capital gains at the rate of 12.5%; and

(*b*) income-tax payable on the total income as reduced by long-term capital gains referred to in sub-section (*1*) as if the total income so reduced were the total income of the assessee.

(*3*) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (*1*) is below the maximum amount which is not chargeable to income-tax, then,—

(*a*) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such long-term capital gains shall be computed at the rate as referred to in sub-section (*2*).

(*4*) The condition specified in sub-section (*1*)(*c*) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(*5*) The Central Government may, by notification, specify the nature of acquisition in respect of which the provisions of sub-section (*1*)(*c*)(*i*) shall not apply.

(*6*) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (*1*), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(*7*) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (*1*), the rebate under section 156 shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

(*8*) In this section, "equity oriented fund" means a fund set up under a scheme of a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply and—

(*i*) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(*A*) a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and

(*B*) such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(*ii*) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange,

and, for the purposes of this clause,—

(*I*) the percentage of equity shareholding or unit held in respect of the fund, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(*II*) in case of a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied throughout the term of such insurance policy.

C.—New tax regime

Tax on income of certain manufacturing domestic companies.

199. (*1*) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part other than sections 200 and 201, the income-tax payable in respect of the total income of a person, being a domestic company, for any tax year, shall, at the option of such person, be computed at the rate of 25% subject to the following conditions:—

(*a*) the company has been set-up and registered on or after the 1st March, 2016;

(*b*) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(*c*) the total income of the company has been computed,—

(*i*) without any deduction under—

(*A*) sections 45(*2*)(*c*) and 47(*1*)(*b*);

(*B*) Chapter VIII-C, other than the provisions of section 146; or

(*C*) sections specified in section 205(*1*)(*a*) to (*g*);

(*ii*) without set off of any loss carried forward from any earlier tax year, if such loss is attributable to any of the deductions referred to in sub-clause (*i*).

(*2*) The loss referred to in sub-section (*1*)(*c*)(*ii*) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(*3*) The provisions of this section shall not apply unless an option is exercised by the person in the manner as prescribed on or before the due date specified under section 263(*1*) for furnishing the first of the returns of income which such person is required to furnish and such option once exercised, shall apply to subsequent tax years.

(*4*) Once the option under sub-section (*3*) has been exercised for any tax year, it cannot be subsequently withdrawn for the same or any other tax year, except where the person exercises option under section section 200.

Tax on income of certain domestic companies.

200. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B and this Part, other than sections 199 and 201, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a domestic company, in respect of the total income of such person computed in the following manner:—

(*a*) without any deduction under—

(*i*) sections 45(*2*)(*c*) and 47(*1*)(*b*); or

(*ii*) Chapter VIII other than the provisions of section 146; or

(*iii*) sections specified in section 205(*1*)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*);

(*c*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116(*1*), if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(*2*) Where the person fails to satisfy the requirements contained in sub-section (*1*) in any tax year, the option shall become invalid in respect of the said tax year and subsequent years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent years.

(*3*) The loss and depreciation referred to in sub-section (*1*)(*b*) and (*c*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(*4*) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under sub-section (*5*), the requirements contained in sub-section (*1*) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

(*5*) The provisions of this section shall not apply unless the option is exercised by the person in the such manner as prescribed on or before the due date specified under section 263(*1*) for furnishing the return of income and such option once exercised, shall apply to subsequent tax years.

(*6*) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

(*7*) In case of a person, being a domestic company, where the option exercised by it under section 201, has been rendered invalid due to violation of the conditions contained in section 205(*2*)(*b*) or (*c*) or (*d*), such person may exercise the option under this section.

Tax on income of new manufacturing domestic companies.

201. (*1*) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B and this Part other than sections 199 and 200, the income-tax payable in respect of the total income of an assessee, being a domestic company, specified in column B of the Table below, shall, at the option of such assessee, be computed at the rates specified in column C, if the conditions contained in column D thereof are fulfilled.

Table

Sl. No.	Assessee	Total income and rate of tax	Conditions
A	B	C	D
1.	A domestic company engaged in business of manufacture or production of any article or thing.	(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and	Such domestic company— (*a*) exercises the option in the manner provided in sub-section (*2*); (*b*) has been set-up and registered on or after the 1st October, 2019; (*c*) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024;

A	B	C	D
		(*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so under section 205(*4*).	(*d*) the total income of which is computed as per the provisions of sub-section (*3*); and (*e*) fulfils all the conditions provided in sub-section (*5*) of this section and section 205(*2*).

(*2*) The option under this section shall be exercised by the assessee in the manner prescribed subject to the following conditions:—

(*a*) it shall be exercised on or before the due date specified under section 263(*1*) for furnishing first of the returns of income for any tax year;

(*b*) such option, once exercised, shall apply to subsequent tax years;

(*c*) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year; and

(*d*) where the assessee fails to fulfil the conditions contained in sub-section (*1*)(Table: Sl. No. 1.D) in any tax year,—

(*i*) the option shall become invalid in respect of such tax year and subsequent tax years; and

(*ii*) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(*3*) For the purposes of sub-section (*1*), the total income of the assessee shall be computed,—

(*a*) without any deduction under—

(*i*) sections 45(*2*)(*c*) and 47(*1*)(*b*);

(*ii*) Chapter VIII other than sections 146 and 148; or

(*iii*) section 205(*1*)(*a*) to (*g*);

(*b*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116(*1*), if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(*4*) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (*3*)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

(*5*) In case of an amalgamation, option under this section shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (*1*) (Table: Sl. No. 1.D) are continued to be fulfilled by such company.

New tax regime for individuals, Hindu undivided family and others.

202. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B and this Part the income-tax payable by a person, being—

(*a*) an individual; or

(*b*) a Hindu undivided family; or

(*c*) an association of persons (other than a co-operative society); or

(*d*) a body of individuals, whether incorporated or not; or

(*e*) an artificial juridical person referred to in section 2(*77*)(*g*),

in respect of the total income for a tax year, shall, unless the person exercises the option in the manner provided under sub-section (*4*), be computed at the rate of tax given in the following Table:—

Table

Sl.No.	Total income	Rate of tax
A	B	C
1.	Upto ₹4,00,000	*Nil*
2.	From ₹4,00,001 to ₹8,00,000	5%
3.	From ₹8,00,001 to ₹12,00,000	10%
4.	From ₹12,00,001 to ₹16,00,000	15%
5.	From ₹16,00,001 to ₹20,00,000	20%
6.	From ₹20,00,001 to ₹24,00,000	25%.
7.	Above ₹24,00,000	30%

(*2*) For the purposes of sub-section (*1*), the total income of the assessee shall be computed—

(*a*) without any exemption or deduction under the provisions of or in—

(*i*) Schedule III (Table: Sl. No. 5 or 6 or 7 or 8 or 11 or 17);

(*ii*) Schedule III (Table: Sl. No. 12 or 13) (other than those as prescribed for this purpose);

(*iii*) section 144;

(*iv*) section 19(*1*) (Table: Sl. No. 1);

(*v*) section 22(*1*)(*b*), in respect of properties referred to in section 21(*6*);

(*vi*) section 33(*8*);

(*vii*) section 48;

(*viii*) section 49;

(*ix*) section 45(*3*)(*a*) or (*b*) or (*c*);

(*x*) section 46;

(*xi*) section 47(*1*)(*a*);

(*xii*) of Chapter VIII other than the provisions of sections 124(*1*), 125(*3*) and 146; and

(*b*) without set off of—

(*i*) any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*); or

(*ii*) any loss under the head "Income from house property" with any other head of income; and

(*c*) without any exemption or deduction for allowances or perquisite, called by any name, provided under any other law in force.

(*3*) The loss and depreciation referred to in sub-section (*2*)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(*4*) Nothing contained in sub-section (*1*) shall apply to a person, where an option is exercised by such person under this section, in such manner as prescribed, for any tax year, and such option is exercised,—

(*a*) in case of a person having income from business or profession,—

(*i*) on or before the due date specified under section 263(*1*) for furnishing the returns of income for such tax year;

(*ii*) such option, once exercised, shall apply to subsequent tax years;

(*iii*) such option, once exercised, may be withdrawn only once for a tax year other than the tax year for which it was exercised; and

(*iv*) after such withdrawal, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession, and in such a case the option under clause (*b*) shall be available;

(*b*) in case of a person not having income from business or profession, along with the return of income to be furnished under section 263(*1*) for the tax year.

(*5*) In case of a person, having a Unit in the International Financial Services Centre, who has exercised the option under sub-section (*4*) for any tax year from 2020-21 to 2023-24, the provisions of sub-section (*2*) shall be modified to the extent that deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

Tax on income of certain resident co-operative societies.

203. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Part A, B and this Part, other than section 204, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a co-operative society resident in India, in respect of the total income of such person computed in the following manner:—

(*a*) without any deduction under—

(*i*) Chapter VIII other than the provisions of section 146; or

(*ii*) sections specified in section 205(*1*)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(*2*) Where a person fails to satisfy the requirements contained in sub-section (*1*) in any tax year, the option shall become invalid in respect of the said tax year and subsequent tax years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent tax years.

(*3*) The loss and depreciation referred to in clause (*b*) of sub-section (*1*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent tax year.

(*4*) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under this section, the requirements contained in sub-section (*1*) shall be modified to the extent that the deduction under section 147 shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

(*5*) The provisions of this section shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under section 263(*1*) for furnishing the return of income and such option once exercised shall apply to subsequent tax years.

(*6*) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

Tax on income of certain new manufacturing co-operative societies.

204. (*1*) Irrespective of anything contained in this Act but subject to the provisions of Part A, B and this Part other than section 203, the income-tax payable in respect of the total income of an assessee, being a co-operative society, resident in India, engaged in the business of manufacture or production of any article or thing, shall at the option of such assessee, be computed at the rates specified in column A of the said Table, if the conditions contained in column B thereof are fulfilled.

Table

Total income and rate of tax	Conditions
A	B
(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and (*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so under section 205 (*4*).	Such co-operative society— (*a*) exercises the option in the manner provided in sub-section (*2*); (*b*) has been set-up and registered on or after the 1st April, 2023; and (*c*) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024; and (*d*) the total income of which is computed as per the provisions of sub-section (*3*); and (*e*) fulfils all the conditions provided in section 205(*2*).

(*2*) The option under this section shall be exercised by the assessee in the manner as prescribed subject to the following conditions:—

(*a*) it shall be exercised on or before the due date specified under section 263(*1*) for furnishing the first of the returns of income for any tax year; and

(*b*) such option, once exercised, shall apply to subsequent tax years;

(*c*) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year;

(*d*) where the assessee fails to fulfil the conditions contained in sub-section (*1*)(Table: Sl. No. 1. B) in any tax year,—

(*i*) the option shall become invalid in respect of the tax year and subsequent tax years; and

(*ii*) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(*3*) For the purposes of sub-section (*1*), the total income of the assessee shall be computed,—

(*a*) without any deduction under—

(*i*) Chapter VIII other than the provisions of section 146; or

(*ii*) sections specified in 205(*1*)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(*4*) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (*3*)(*b*) be shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

Conditions for tax on income of certain companies and co-operative societies.

205. (*1*) For the purposes of sections 199(*1*)(*c*)(*i*)(C), 200(*1*)(*a*)(*iii*), 201(*3*)(*a*)(*iii*), 203(*1*)(*a*)(*ii*) and 204(*3*)(*a*)(*ii*), the total income shall be computed without any deduction or exemption, under the following provisions:—

(*a*) section 33(*8*), determined in such manner, as prescribed;

(*b*) section 45(*3*)(*a*) or (*b*) or (*c*);

(*c*) section 46;

(*d*) section 47(*1*)(*a*).;

(*e*) section 48;

(*f*) section 49; and

(*g*) section 144.

(*2*) For the purposes of section 201 or 204, the following conditions shall apply to the assessee:—

(*a*) its business is not formed by splitting up, or the reconstruction, of a business already in existence, unless it is formed as a result of the re-establishment, reconstruction or revival of the business of any such undertaking as is referred to in section 140(*4*) in the circumstances and within the period specified in the said section;

(*b*) it does not use any machinery or plant, previously used for any purpose, other than—

(*i*) permitted machinery or plant used outside India;

(*ii*) machinery or plant or any part thereof previously used for any purpose and the total value of such machinery or plant or any part thereof put to use by the assessee does not exceed 20% of the total value of the machinery or plant used by such assessee;

(*c*) in case of a domestic company, it does not use any building previously used as a hotel or a convention centre, in respect of which deduction under section 80-ID of the Income Tax Act, 1961 has been claimed and allowed;

43 of 1961.

(*d*) it is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it,

and, if any difficulty arises in fulfilling any of the conditions contained in clause (*b*) or (*c*) or (*d*), the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(*3*) No guideline under sub-section (*2*) shall be issued after the expiration of two years from the 1st April, 2026.

(*4*) Every guideline issued by the Board under sub-section (*2*) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(*5*) For the purposes of section 201,—

(*a*) where it appears to the Assessing Officer that, owing to the close connection between the person to which the said section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, then the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take profits as may be reasonably deemed to have been derived therefrom, and where the said arrangement involves a specified domestic transaction referred to in section 164, profits from such transaction shall be determined having regard to the arm's length price as defined in section 173(*a*); and

(*b*) the amount, being profits in excess of the profits determined by the Assessing Officer under clause (*a*), shall be deemed to be the income of the person and shall be chargeable at the rates specified in section 201(*1*) [Table: Sl. No. 1.B(*d*)] or 204 (*1*)[Table: Sl. No. 1.A(*d*)], as the case may be.

(*6*) For the purposes of this Part,—

(*a*) the business of manufacture or production of any article or thing shall include the business of generation of electricity but shall not include business of—

(*i*) development of computer software in any form or in any media; or

(*ii*) mining; or

(*iii*) conversion of marble blocks or similar items into slabs; or

(*iv*) bottling of gas into cylinder; or

(*v*) printing of books or production of cinematograph film; or

(*vi*) any other business as may be notified by the Central Government in this behalf; and

(*b*) the expressions,—

(*i*) "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (*b*) and clause (*a*) of section 80-ID(*6*) of the Income Tax Act, 1961; 43 of 1961.

(*ii*) "permitted machinery and plant used outside India" means the machinery or plant, which was previously used outside India by any other person, if the following conditions are fulfilled:—

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

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

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

(*iii*) "unabsorbed depreciation" shall have the meaning assigned to it in section 116(*13*)(*e*); and

(*iv*) "Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005. 28 of 2005.

D.—Special provisions relating to minimum alternate tax and alternate minimum tax

Special provision for minimum alternate tax and alternate minimum tax.

206. (*1*) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee, referred to in column B of Table, the income-tax payable on the total income as computed under this Act in respect of a tax year is less than the percentage referred to in column C of the said Table of book profit in the case of a company or of adjusted total income in any other case, computed as per the provisions of Note to the said Table, then—

(*a*) such book profit in the case of a company or such adjusted total income in any other case shall be deemed to be the total income of that assessee for such tax year; and

(*b*) the tax payable on such total income shall be at the rate provided in column C of the said Table.

Table

Sl. No.	Assessee	Percentage of book profit or adjusted total income
A	B	C
1.	A company, other than a unit as referred to against serial number 2.	15% of book profit.
2.	A unit, being a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9% of book profit.
3.	A person, other than— (*a*) a company; (*b*) a co-operative society; (*c*) a unit as referred to against serial number 4.	18.5% of adjusted total income.
4.	A unit, being a person other than a company located in an International Financial Services Centre and derives its income solely in convertible foreign exchange.	9% of adjusted total income.
5.	A co-operative society.	15% of adjusted total income.

Note 1:—Adjusted total income, for the purposes of Sl. Nos. 3, 4 and 5 shall be the total income before giving effect to this section, as increased by deductions claimed, if any, under—

(*a*) any section (other than section 149) included in Chapter VIII-C;

(*b*) section 144; and

(*c*) section 46 as reduced by depreciation allowable as per the provisions of section 33, as if no deduction was allowed in respect of the assets on which the deduction under that section is claimed.

(*2*) The book profit under this section shall be computed in the following manner:—

B = P + (I-R)

where,—

B = book profit for the purposes of this section;

P = profit, as shown in the statement of profit and loss for the relevant tax year prepared as per sub-section (*3*);

I = amounts mentioned in column B of Table below;

R = amounts mentioned in column C of said Table.

Table

Sl. No.	Amounts (to be increased)	Amounts (to be reduced)
A	B	C
1.	(*a*) Income-tax paid or payable and the provision therefor, if any such amount is debited to the statement of profit and loss, where income-tax shall include— (*i*) any interest charged under this Act; (*ii*) surcharge, if any, as levied under the Central Acts; (*iii*) Education Cess on income-tax, if any, as levied under the Central Acts; and (*iv*) Secondary and Higher Education Cess on income-tax, if any, as levied under the Central Acts; (*b*) the amounts carried to any reserves, called by any name, if any such amount is debited to the statement of profit and loss; (*c*) the amount or amounts set aside for meeting liabilities, other than ascertained liabilities, if any such amount is debited to the statement of profit and loss; (*d*) the amount by way of provision for losses of subsidiary companies, if any such amount is debited to the statement of profit and loss; (*e*) dividends paid or proposed, if any such amount is debited to the statement of profit and loss; (*f*) expenditure relatable to any income to which provisions of section 11 apply or any expenditure out of regular income of a registered non-profit organisation referred in section 335, if any such amount is debited to the statement of profit and loss; (*g*) depreciation, if any such amount is debited to the statement of profit and loss; (*h*) deferred tax and the provision therefor, if any such amount is debited to the statement of profit and loss;	(*a*) The amount withdrawn from any reserve or provision, where,— (*i*) any such amount is credited to the statement of profit and loss (excluding a reserve created before the 1st April, 1997 otherwise than by way of a debit to the statement of profit and loss); and (*ii*) the book profit of such year has been increased by those reserves or provisions out of which the said amount was withdrawn; (*b*) income to which any of the provisions of section 11 apply or any regular income of a registered non-profit organisation referred in section 335, if any such amount is credited to the statement of profit and loss; (*c*) depreciation debited to the statement of profit and loss excluding the depreciation on account of revaluation of assets; (*d*) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed depreciation on account of revaluation of assets referred to in clause (*c*); (*e*) deferred tax, if any such amount is credited to the statement of profit and loss; (*f*) loss brought forward (excluding depreciation) or unabsorbed depreciation, whichever is less, as per books of account, except, where either of such amount is nil, in case of a company other than the company referred to in sub-section (*4*) (Table: Sl. No. 6 or 7); and (*g*) such amounts mentioned in column D of the Table in sub-section (*4*), in case of an assessee mentioned in column B of the said Table.

A	B	C
	(*i*) the amount or amounts set aside as provision for diminution in the value of any asset, if any such amount is debited to the statement of profit and loss;	
	(*j*) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset, if any such amount is not credited to the statement of profit and loss; and	
	(*k*) such amounts mentioned in column C of the Table under sub-section (*4*), in case of an assessee mentioned in column B of the said Table.	

(*3*) For the purposes of this section, every company shall prepare its statement of profit and loss for the relevant tax year in the following manner:—

(*a*) if it is an insurance or banking company, or a company engaged in the generation or supply of electricity, or any other class of company for which a form of financial statement has been specified under the enactment governing such class of company, as per the provisions of such enactment;

(*b*) in all other cases, as per the provisions of Schedule III to the Companies Act, 2013. 18 of 2013.

(*4*) While computing the book profit under sub-section (*2*), the following amounts shall be further adjusted:—

Table

S. No.	Assessee	Amounts (to be increased)	Amount (to be decreased)
A	B	C	D
1.	A company being a member of association of persons or body of individuals	The amount or amounts of expenditure relatable to income referred to in Note if any such amount is debited to the statement of profit and loss	Income referred to in Note if any such amount is credited to the statement of profit and loss.
2.	A foreign company	The amount or amounts of expenditure relatable to income referred to in Note ,if any such amount is debited to the statement of profit and loss.	Income referred to in Note , if such income is credited to the statement of profit and loss.

Note : Income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable as per the provisions of section 310.

A	B	C	D

Note: Income, accruing or arising to an assessee from—

(*a*) the capital gains arising on transactions in securities; or

(*b*) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XIII,

if the income-tax payable thereon as per the provisions of this Act, other than the provisions of this Part, is at a rate less than the rate specified in sub-section (*1*).

3.	A company, which has transferred any capital asset, being share of a special purpose vehicle to a business trust	Amount referred to in Note, if any such amount is debited to the statement of profit and loss.	Amount referred to in Note, if any such amount is credited to the statement of profit and loss.

Note: The amount representing—

(*a*) the notional loss on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in section 70(*1*)(*zi*); or

(*b*) the notional loss resulting from any change in carrying amount of the said units; or

(*c*) the loss on transfer of units referred to in section 70(*1*)(*zi*).

4.	A company, which has transferred any capital asset, as referred to against serial number 3	Gain on transfer of units referred to in Note	Loss on transfer of units referred to in Note.

Note: Units referred to in section 70(*1*)(*zi*), computed by taking into account the cost of the shares exchanged with units referred to in the said clause, or the carrying amount of the shares at the time of exchange, where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be.

5.	Where total income includes income by way of royalty in respect of a patent which is chargeable to tax under section 194(*1*)(Table: Sl. No. 2).	The amount or amounts of expenditure relatable to such royalty income, if any such amount is debited to the statement of profit and loss	Income by way of such royalty.

A	B	C	D
6.	A company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has after suspension of the Board of Directors of such company has nominated new directors under section 242 of the said Act	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.
7.	A company against whom corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016	*Nil*	The aggregate of unabsorbed depreciation and loss (excluding depreciation) brought forward.
8.	A sick industrial company under section 17(*1*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003	*Nil.*	Profits for the tax year in which the such company has become a sick industrial company and ending with the tax year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

A	B	C	D
9.	A company whose financial statements are drawn up in compliance with the Indian Accounting Standards, specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013.	(*a*) All amounts credited to the statement of profit and loss as referred in Note 1; (*c*) the amounts or aggregate of the amounts debited to the statement of profit and loss on distribution as referred in Note 2; (*c*) one-fifth of the transition amount, in the year of convergence and each of the following four tax years, if such amount is not decreased; (*d*) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not decreased; (*e*) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not decreased.	(a) All amounts debited to the statement of profit and loss as referred in Note 1; (*b*) the amounts or aggregate of the amounts credited to the statement of profit and loss on distribution as referred in Note 2; (*c*) one-fifth of the transition amount, in the year of convergence and each of the following four tax years, if such amount is not increased; (*d*) the amount or the aggregate of the amounts referred to in Note 3, if such amount is not increased; (*f*) the amount or the aggregate of the amounts referred to in Note 4, if such amount is not increased.

Note 1: Other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss", excluding—

(*i*) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(*ii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109; and

the amount or the aggregate of the amounts referred to in clause (*a*) (*i*) and (*ii*) for the tax year or any of the preceding tax years, and relatable to such asset or investment, in the tax year in which the said asset or investment referred to in clause (*a*) is retired, disposed, realised or otherwise transferred.

Note 2: on distribution of non-cash assets to shareholders in a demerger as per Appendix A of the Indian Accounting Standards 10.

Note 3: sub-section (*19*)(*f*)(*ii*) to (*v*) relatable to such asset or investment, in the tax year in which the asset or investment referred to in such sub-clauses is retired, disposed, realised or otherwise transferred.

Note 4: sub-section (*19*)(*f*)(*ii*) to (*v*) relatable to such foreign operations, in the tax year in which the foreign operation referred to in such sub-clause is disposed or otherwise transferred.

(*5*) In case of a person, being a company, while preparing the annual accounts including statement of profit and loss,—

(*a*) the accounting policies;

(*b*) the accounting standards adopted for preparing such accounts including statement of profit and loss; and

(*c*) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss and laid before the company at its annual general meeting as per the provisions of section 129 of the Companies Act, 2013, or correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including statement of profit and loss for, such financial year or part of such financial year falling within the relevant tax year, where the company has adopted or adopts the financial year under the which is different from the tax year under this Act.

(*6*) The provisions of this section shall not be applicable to any assessee, being a foreign company, where—

(*a*) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in section 159(*1*) or the Central Government has adopted any agreement under section 159(*2*) and the assessee does not have a permanent establishment in India as per the provisions of such agreement; or

(*b*) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (*a*) and the assessee is not required to seek registration under any law in force relating to companies; or

(*c*) its total income comprises solely of profits and gains from business referred to in section 61(*2*)(Table: Sl. Nos. 1, 3, 4 and 5), and such income has been offered to tax at the rates specified in the respective sections.

(*7*) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from the values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(*8*) In the case of an assessee being a company, where—

(*a*) there is an increase in book profit of the tax year due to income of past year or years included in the book profit on account of—

(*i*) an advance pricing agreement entered into by the assessee under section 168; or

(*ii*) a secondary adjustment required to be made under section 170; and

(*b*) the assessee has not utilised the credit of tax paid under this section in any subsequent tax year under sub-section (*13*),

the Assessing Officer shall, on an application made to him in this behalf by the assessee,—

(*i*) recompute the book profit of the past year or years and tax payable, if any, by the assessee during the tax year under sub-section (*1*) in such manner, as prescribed; and

(*ii*) the provisions of section 287 shall, so far as may be, apply and the period of four years specified in sub-sections (*7*) and (*8*) of that section shall be reckoned from the end of the tax year in which the said application is received by the Assessing Officer.

(*9*) Irrespective of anything contained in any other provisions of this Act, no interest shall be payable to an assessee on the refund arising on account of the provisions of sub-section (*8*).

(*10*) In the case of an assessee being a company, nothing contained in sub-section (*1*) shall affect the determination of the amounts in relation to the relevant tax year to be carried forward to the subsequent year or years under the provisions of—

(*a*) section 33(*11*); or

(*b*) section 111; or

(*c*) section 112(*1*); or

(*d*) section 113; or

(*e*) section 115.

(*11*) Every assessee to which this section applies, shall furnish a report in the prescribed form from an accountant, certifying that the book profit in the case of a company, or adjusted total income in any other case, has been computed as per the provisions of this section—

(*a*) before the specified date referred to in section 63; or

(*b*) along with the return of income furnished in response to a notice under section 268(*1*) in the case of an assessee being a company.

(*12*) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee mentioned in this section.

(*13*) Where any tax is paid under sub-section (*1*) by an assessee, then, credit shall be allowed to him of an amount which shall be the difference of the tax paid for any tax year under sub-section (*1*) and tax payable by the assessee on his total income computed as per the other provisions of this Act.

(14) While allowing credit under sub-section (13),—

(*a*) no interest shall be payable on the tax credit so allowed; and

(*b*) where tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 159(*1*) or (*2*), allowed against the tax payable under the provisions of sub-section (*1*) exceeds such tax credit admissible against the tax payable by the assessee on its income as per the other provisions of this Act, then, while computing the credit under sub-section (*13*), such excess amount shall be ignored.

(*15*) Tax credit determined under sub-section (*13*) shall be carried forward and—

(*a*) set off in a year, when tax becomes payable on the total income computed as per the provisions of this Act exceeds tax determined under sub-section (*1*); and

(*b*) such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (*1*) for that tax year,

and such carry forward shall not be allowed beyond the fifteenth tax year immediately succeeding the tax year in which the tax credit becomes allowable under sub-section (*13*).

(*16*) Where as a result of any order passed under this Act, tax payable under this Act is reduced or increased, tax credit allowed under sub-section (13) shall also be increased or reduced accordingly.

(*17*) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008, the provisions of this section shall not apply to the successor limited liability partnership.

6 of 2009.

(*18*) The provisions of this section shall not apply to—

(*a*) a person, being a company having income accruing or arising from life insurance business referred to in section 194(*1*)(Table: Sl. No. 6); or

(*b*) a person, who has exercised the option under—

(*i*) section 200(5); or

(*ii*) section 201(*2*); or

(*iii*) section 203(*5*); or

(*iv*) section 204(*2*); or

(*c*) a person, whose income-tax payable in respect of the total income of such person is computed under section 202(*1*); or

(*d*) an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in section 2(*77*)(*g*), if the adjusted total income of such person does not exceed twenty lakh rupees; or

(*e*) any specified fund referred to in Schedule VI (Note 1).

(*19*) In this section,—

(*a*) "Adjudicating Authority" shall have the same meaning as assigned to it in section 5(*1*) of the Insolvency and Bankruptcy Code, 2016;

31 of 2016.

(*b*) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(*c*) "net worth" shall have the meaning assigned to it in section 3(*1*)(*ga*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003;

1 of 1986.

1 of 2004.

(*d*) "private company" and "unlisted public company" shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008;

6 of 2009.

(*e*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(*f*) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date, but not including the following:—

(*i*) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(*ii*) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(*iii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109 adjusted on the convergence date;

(*iv*) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost as per paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(*v*) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost as per paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(*vi*) adjustments relating to cumulative translation differences of a foreign operation as per paragraph D13 of the Indian Accounting Standards 101 on the convergence date.

(*g*) "Tribunal" shall have the same meaning as assigned to it in section 2(*90*) of the Companies Act, 2013; 18 of 2013.

(*h*) "Unit" means a unit established in an International Financial Services Centre;

(*i*) "year of convergence" means the tax year within which the convergence date falls; and

(*j*) a company shall be a subsidiary of another company, if such other company holds more than half in the nominal value of equity share capital of the company.

E.—Special provisions relating to non-residents and foreign companies

Tax on dividends, royalty and technical service fees in case of foreign companies.

207. (*1*) The income-tax payable on the total income of a non-resident (not being a company) or a foreign company, which includes any income specified in the column B of the Table below, shall be the aggregate of income-tax specified in the column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Dividend [other than dividends specified against serial number 2.	20%
2.	Dividend received from a unit in an International Financial Services Centre.	10%
3.	Interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency not being interest referred to against serial numbers 4 and 5.	20%
4.	Interest received from an infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
5.	Interest of the nature and extent referred to in section 393(*2*) (Table: Sl. No. 2), (Table: Sl. No. 3 and 4).	Rates specified in section 393(*2*) (Table: Sl. No. 2, 3 and 4).
6.	Distributed income being interest referred to in section 393(*2*) (Table: Sl. No. 6).	Rate specified in section 393(*2*) (Table: Sl. No. 6).
7.	Income received in respect of units, purchased in foreign currency, of a Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21) or of the Unit Trust of India.	20 %

A	B	C
8.	Total income as reduced by income referred to against serial numbers 1 to 7.	Income-tax chargeable on such income.

(*2*) Where the total income of a non-resident (not being a company) or of a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made after the 31st March,1976, other than income referred to in section 59(*1*), and—

(*a*) the agreement is approved by the Central Government where such agreement is with an Indian concern; or

(*b*) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, it is as per that policy,

then, subject to the provisions of sub-section (*3*), the income-tax payable shall be the aggregate of income-tax specified in column C of the Table below:—

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Royalty [other than income referred to in section 59(*1*)].	20%
2.	Fees for technical services [other than income referred to in section 59(*1*)].	20%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

(*3*) Where the royalty referred to in sub-section (*2*) is in consideration for the transfer or grant of all or any rights (including the granting of a licence)—

(*a*) in respect of copyright in any book to an Indian concern; or

(*b*) in respect of any computer software to a person resident in India,

then the provisions of sub-section (*2*) shall apply in relation to such royalty without application of provisions of clause (*a*) or (*b*) of that sub-section.

(*4*) In this section,—

(*a*) "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device; or any customised electronic data or any product or service of similar nature as notified by the Board, which is transmitted or exported from India to a place outside India by any means;

(*b*) "fees for technical services" shall have the meaning assigned to it in section 9;

(*c*) "royalty" shall have the meaning assigned to it in section 9.

(*5*) No deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 61 and section 93 for computing income referred to in sub-sections (*1*) and (*2*).

(*6*) Where the gross total income of an assessee—

(*a*) consists only of the income referred to in sub-section (*1*)(Table: Sl. No. 1 to 7), no deduction shall be allowed under Chapter VIII;

(*b*) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1 to 7), the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if such reduced amount were the gross total income of the assessee;

(*7*) the provisions of sub-section (*6*) shall not apply to a deduction allowed to Unit of an International Financial Services Centre under section 147.

(*8*) It shall not be necessary for an assessee to furnish a return of income under section 263(*1*), if—

(*a*) the total income during the tax year consisted only of income referred to in sub-sections (*1*)(Table: Sl. No. 1 to 7) and sub-section (*2*) (Table: Sl. No. 1 and 2); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income at a rate not less than the rate specified in sub-sections (*1*) and (*2*).

Tax on income from units purchased in foreign currency or capital gains arising from their transfer.

208. (*1*) The income-tax payable on the total income of an assessee, being an overseas financial organisation (herein referred to as Offshore Fund), which includes income specified in column B of the Table below, shall be the aggregate of the amount specified in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income received in respect of units purchased in foreign currency.	10 %
2.	Long-term capital gains arising from the transfer of units purchased in foreign currency.	12.5%
3.	Total income as reduced by income referred to in against serial numbers 1 and 2.	Income-tax chargeable on such income.

(*2*) Where the gross total income of the Offshore Fund—

(*a*) consists only of income from units or income by way of long-term capital gains arising from the transfer of units, or both, no deduction shall be allowed to the assessee under sections 26 to 61 or section 93(*1*)(*a*) and (*e*) or under Chapter VIII;

(*b*) includes any income referred to in clause (*a*),—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced were the gross total income of the assessee.

(*3*) In this section,—

(*a*) "overseas financial organisation" means any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India,—

(*i*) which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); and

(*ii*) such arrangement is approved by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992, for this purpose;

15 of 1992.

(*b*) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013;

18 of 2013.

(*c*) "unit" means unit of,—

(*i*) a mutual fund specified in Schedule VII (Table: Sl. No. 20) or (Table: Sl. No. 20 or 21); or

(*ii*) the Unit Trust of India.

Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

209. (*1*) The income -tax payable, on the total income of an assessee, being a non- resident, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	From interest on— (*a*) bonds of an Indian company issued in accordance with such scheme as notified by the Central Government; or (*b*) bonds of a public sector company sold by the Government, and purchased in foreign currency.	10 %
2.	From dividends on Global Depository Receipts— (*a*) issued as per such scheme as the Central Government may, notified, against the initial issue of shares of an Indian company and purchased in foreign currency through an approved intermediary; or (*b*) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or (*c*) issued or re-issued in accordance with a scheme notified by the Central Government, against the existing shares of an Indian company purchased in foreign currency through an approved intermediary.	10 %
3.	Long-term capital gains arising from the transfer of bonds referred to against serial number 1 or Global Depository Receipts referred to against serial number 2.	12. 5%
4.	Total income as reduced by income referred to against serial numbers 1 to 3.	Income-tax chargeable on such income.

(*2*) Where the gross total income of the non-resident—

(*a*) consists only of income by way of interest or dividends in respect of—

(*i*) bonds referred to in sub-section (*1*) (Table: Sl. No. 1); or sub-section (*1*); or

(*ii*) Global Depository Receipts referred to in sub-section (*1*) (Table: Sl. No. 2), no deduction shall be allowed under sections 26 to 61 or section 93(*1*)(*a*) or 93(*1*)(*e*) or under Chapter VIII;

(*b*) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1) to (Table: Sl. No. 3),—

(*i*) the gross total income shall be reduced by the such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced, were the gross total income of the assessee.

(*3*) The provisions of section 72(*6*) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset being bonds or Global Depository Receipts referred to in sub-section (*1*) (Table: Sl. No. 3).

(*4*) It shall not be necessary for a non-resident to furnish a return of his income under section 263(*1*), if—

(*a*) his total income during the tax year consisted only of income referred to in sub-sections (*1*) (Table: Sl. No. 1) and (Table: Sl. No. 2); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

(*5*) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, as per the provisions of sub-section (*1*), the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

(*6*) In this section,—

(*a*) "approved intermediary" means an intermediary which is approved as per a scheme notified by the Central Government; and

(*b*) "Global Depository Receipts" shall have the meaning assigned to it in section 190(*4*)(*a*).

Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

210. (*1*) The income-tax payable on total income of an assessee, being a specified fund or Foreign Institutional Investor, which includes the income referred to in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Securities other than units referred to in section 208.	(*a*) 20 % in case of Foreign Institutional Investor; (*b*) 10 % in case of specified fund.
2.	Short-term capital gains (not being short-term capital gains referred to in section 196) arising from the transfer of such securities.	30 %
3.	Short-term capital gains referred to in section 196 arising from the transfer of such securities	20 %
4.	Long-term capital gains (not being long-term capital gains referred to in section 198 arising from the transfer of such securities	12.5 %
5.	Long-term capital gains referred to in section 198 arising from the transfer of such securities which exceeds ₹ 1,25,000.	12.5 %
6.	Total income as reduced by income referred to against serial numbers 1 to 5.	Income-tax chargeable on such income.

(*2*) In case of specified fund, provisions of this section shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of such non-resident in India) calculated in the manner as prescribed, irrespective of the provisions of sub-section (*1*).

(*3*) Irrespective of anything contained in sub-section (*1*), where the specified fund—

(*a*) is investment division of an offshore banking unit as specified against serial number 1 of the Table in Schedule III.6; and

(*b*) fulfills the conditions referred to in clause (*g*)D(*ii*) of cell E1 of the Table in Schedule VI (Note 1),

the provisions of this section shall apply to the extent of income that is attributable to such investment division, calculated in the manner, as prescribed.

(*4*) Where the gross total income of the specified fund or Foreign Institutional Investor—

(*a*) consists only of income in respect of securities referred in sub-section (*1*) (Table: Sl. No. 1), no deduction shall be allowed to it under sections 26 to 61 or section 93(*1*)(*a*) or (*e*) or under Chapter VIII;

(*b*) includes any income referred to in sub-section (*1*) (Table: Sl. No. 1) to (Table: Sl. No. 5),—

(*i*) the gross total income shall be reduced by the amount of such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced, were the gross total income of the specified fund or Foreign Institutional Investor.

(*5*) The provisions of section 72(*6*) shall not apply for the computation of capital gains arising out of the transfer of securities referred to in sub-section (*1*) (Table: Sl. No. 2) to (Table: Sl. No. 5).

(*6*) In this section,—

(*a*) "Foreign Institutional Investor" means an investor so specified in a notification by the Central Government;

(*b*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*c*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*d*) "specified fund" shall have the meaning assigned to it in Schedule VI [Note 1]

Tax on non-resident sportsmen or sports associations.

211. (*1*) Where the total income of an assessee,—

(*a*) being a sportsman (including an athlete), who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(*i*) participation in India in any game [other than a game the winnings from which are taxable as specified in section 194(*1*) (Table: Sl. No. 1)] or sport; or

(*ii*) advertisement; or

(*iii*) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(*b*) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game, other than a game the winnings from which are taxable as specified in section 194(*1*) (Table: Sl. No. 1) or sport played in India; or

(*c*) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,

then, the income-tax payable by the assessee shall be the aggregate of amounts mentioned in column C of the Table below:—

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income referred to in clause (*a*) or (*b*) or (*c*).	20 %
2.	Total income as reduced by income referred to in clause (*a*) or (*b*) or (*c*).	Income-tax chargeable on such income.

(*2*) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in sub-section (*1*).

(*3*) It shall not be necessary for the assessee to furnish a return of his income under section 263(*1*), if—

(*a*) his total income during the tax year consisted only of income referred to in sub-section (*1*); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

Interpretation

212 In sections 213 to 218,—

(*a*) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(*b*) "investment income" means any income derived from a foreign exchange asset;

(*c*) "long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(*d*) "non-resident Indian" means an individual, who is not a resident and is—

(*i*) a citizen of India; or

(*ii*) a person of Indian origin;

(*e*) "specified asset" means any of the following assets:—

(*i*) shares in an Indian company; or

(*ii*) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 2013; or

18 of 2013.

(*iii*) deposits with an Indian company which is not a private company as defined in the Companies Act, 2013; or

18 of 2013.

(*iv*) any security of the Central Government as defined in section 2(*c*) of the Public Debt Act, 1944; or

18 of 1944.

(*v*) such other assets as the Central Government may specify in this behalf by notification.

Special provision for computation of total income of non-residents.

213. (*1*) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(*2*) In the case of an assessee, being a non-resident Indian, where—

(*a*) the gross total income consists only of investment income or income by way of long-term capital gains or both then no deduction shall be allowed under Chapter VIII;

(*b*) the gross total income includes any income referred to in clause (*a*),—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deductions under Chapter VIII shall be allowed as if the gross total income as so reduced was the gross total income of the assessee.

Tax on investment income and long-term capital gains.

214. The Income-tax payable, on the total income of an assessee, being a non-resident Indian, which includes income specified in column B of the Table below, shall be the aggregate of the amounts mentioned in column C thereof.

Table

Sl. No.	Income	Income-tax payable
A	B	C
1.	Income from investment or income from long-term capital gains of an asset other than a specified asset.	20 %
2.	Income from long-term capital gains on specified asset.	12.5%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Income-tax chargeable on such income.

Capital gains on transfer of foreign exchange assets not to be charged in certain cases.

215. (*1*) Where, in case of an assessee, being a non-resident Indian,—

(*a*) any long-term capital gains arises from the transfer of a foreign exchange asset (herein referred as original asset); and

(*b*) within six months after the date of such transfer, he has invested the whole or any part of the net consideration in any specified asset (herein referred as new asset),

then the capital gains shall be dealt with in the following manner:—

(*i*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 67;

(*ii*) if the cost of the new asset is less than the net consideration in respect of the original asset, then the capital gain computed by the following formula shall not be charged under section 67:—

$$A = B \times \frac{C}{D}$$

Where,

A = the capital gains not to be charges being computed;

B = whole of the capital gain;

C = cost of acquisition of the new asset;

D = net consideration in respect of the original asset.

(*2*) For the In sub-section (*1*),—

(*a*) "cost", in relation to any new asset, being a deposit referred to in section 212(*e*)(iii)(*v*), means the amount of such deposit;

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

(*3*) Where the new asset is transferred or converted (otherwise than by transfer) into money, within three years from date of its acquisition, the capital gain arising from transfer of original asset not so charged under section 67 shall be deemed to be income by way of capital gains of the tax year in which such transfer or conversion takes place relating to capital assets other than short-term capital assets of the tax year in which the new asset is transferred or converted (otherwise than by transfer) into money.

Return of income not to be furnished in certain cases.

216. It shall not be necessary for a non-resident Indian to furnish a return of his income under section 263(*1*), if—

(*a*) his total income during the tax year consisted only of investment income or income by way of long-term capital gains or both; and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

Benefit to be available in certain cases even after assessee becomes resident.

217. (*1*) Where a non-resident Indian in any tax year,—

(*a*) becomes assessable as a resident in India in a subsequent tax year; and

(b) furnishes a declaration in writing to the Assessing Officer along with his return of income under section 263for the tax year for which he is so assessable,to the effect that provisions of sections 212 to 218 shall continue to apply to him in relation to the investment income derived from any foreign exchange asset referred to in section 212(e) other than a share in an Indian company,

then the provisions of this Chapter shall continue to apply in relation to such income until the transfer or conversion (otherwise than by transfer) of such assets into money.

Provisions not to apply if the assessee so chooses.

218. (*1*) A non-resident Indian may choose not to be governed by the provisions of sections 212 to 217 for any tax year by declaring it in his return of income under section 263 for such tax year. and if he does so,—

(*a*) the provisions of sections 212 to 217 shall not apply to him for that tax year, and

(*b*) his total income for that tax year shall be computed and charged to tax according to the other provisions of this Act.

Conversion of an Indian branch of foreign company into subsidiary Indian company.

219. (*1*) Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary Indian company as per the scheme framed by the Reserve Bank of India, then, irrespective of anything contained in this Act and subject to the conditions as notified by the Central Government,—

(*a*) the capital gains arising from such conversion shall not be chargeable to tax in the tax year in which such conversion takes place; and

(*b*) the provisions of this Act relating to—

(*i*) treatment of unabsorbed depreciation, set off or carry forward and set off of losses;

(*ii*) tax credit in respect of tax paid on deemed income relating to certain companies; and

(*iii*) computation of income of the foreign company and subsidiary Indian company,

shall apply with such exceptions, modifications and adaptations as specified in that notification.

(*2*) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (*1*), all the provisions of this Act shall apply to the foreign company and the said subsidiary Indian company without any benefit, exemption or relief under the said sub-section.

(*3*) Where, in a tax year, any benefit, exemption or relief has been claimed and granted as per the provisions of sub-section (*1*) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under the said sub-section then,—

(*a*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(*b*) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment; and

(*c*) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*8*) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(*4*) Every notification issued under this section shall be laid before each House of Parliament.

Foreign company said to be resident in India.

220. (*1*) Where a foreign company is said to be a resident in India in any tax year and such company has not been a resident in India in earlier tax years, then, irrespective of anything in this Act and subject to the conditions as notified by the Central Government in this behalf, the provisions of this Act relating to—

(*a*) the computation of total income;

(*b*) treatment of unabsorbed depreciation;

(*c*) set off or carry forward and set off of losses;

(*d*) collection and recovery; and

(*e*) special provisions relating to avoidance of tax,

shall apply with such exceptions, modifications and adaptations as specified in that notification for such tax years;

(*2*) Where the determination regarding foreign company to be resident in India has been made in the assessment proceedings for any tax year, then, the provisions of sub-section (*1*) shall also apply to any other tax year succeeding such tax year, which ends on or before the date of completion of such assessment proceeding.

(*3*) Where, in a tax year, any benefit, exemption or relief has been claimed and granted to the foreign company as per the provisions of sub-section (*1*), and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under the said sub-section, then,—

(*a*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(*b*) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment as if the exceptions, modifications and adaptation referred to in sub-section (*1*) did not apply; and

(*c*) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*8*) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(*4*) Every notification issued under this section shall be laid before each House of Parliament.

F.—Special provisions relating to pass-through entities

Tax on income from securitisation trusts.

221. (*1*) Irrespective of anything contained in this Act, where a person being an investor of a securitisation trust, receives any income or any income accrues or arises to him, out of investments made in the securitisation trust, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(*2*) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the securitisation trust during the tax year.

(*3*) The income accruing or arising to, or received by, the securitisation trust during a tax year, if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person—

(*a*) on the last day of the tax year; and

(*b*) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(*4*) The person responsible for crediting or making payment of the income on behalf of securitisation trust, and the securitisation trust, shall furnish, within such period, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(*5*) Any income which has been included in the total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the securitisation trust.

(*6*) In this section,—

(*a*) "investor" means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust;

(*b*) "securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(*c*) "securitised debt instrument" shall have the same meaning as assigned to it in regulation 2(*1*)(*s*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956; 15 of 1992. 42 of 1956.

(*d*) "securitisation trust" means a trust, being a—

(*i*) "special purpose distinct entity" as defined in regulation 2(*1*)(*u*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956 and regulated under the said regulations; or 15 of 1992. 42 of 1956.

(*ii*) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; or

(*iii*) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India, 54 of 2002.

which fulfils such conditions, as prescribed;

(*e*) "security receipt" shall have the same meaning as assigned to it in section 2(*1*)(*zg*) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. 54 of 2002.

Tax on income in case of venture capital undertakings.

222. (*1*) Irrespective of anything contained in any other provision of this Act, where a person, out of investments made in a venture capital company or venture capital fund, receives any income, or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had he made investments directly in the venture capital undertaking.

(*2*) The person responsible for crediting or making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(*3*) The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the tax year.

(*4*) The provisions of Chapter XIX-B shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

(*5*) The income accruing or arising to or received by the venture capital company or venture capital fund during a tax year from investments made in venture capital undertaking, if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person—

(*a*) on the last day of the tax year; and

(*b*) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(*6*) Any income which has been included in total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the venture capital company or the venture capital fund.

(*7*) Nothing contained in this section shall apply in respect of any income accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in section 224(*10*)(*a*).

(*8*) For the purposes of this section, "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in Schedule V (Note 4).

Tax on income of unit holder and business trust.

223. (*1*) Irrespective of anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(*2*) Subject to the provisions of sections 196 and 197, the total income of a business trust shall be charged to tax at the maximum marginal rate.

(*3*) If in any tax year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in Schedule V (Table: Sl. No. 3) or (Table: Sl. No. 4), then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the tax year.

(*4*) The provisions of sub-section (*1*) shall not apply in respect of any sum referred to in section 92(*2*)(*k*) received by a unit holder from a business trust.

(*5*) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder, shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner, as

prescribed, giving the details of the nature of the income paid during the tax year and such other details, as prescribed.

Tax on income of investment fund and its unit holders.

224. (*1*) Irrespective of anything contained in any other provision of this Act and subject to the provisions of this section, where a person, being a unit holder of an investment fund, out of investments made in the investment fund, receives any income or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments made by the investment fund been made directly by him.

(*2*) Where in any tax year, the net result of computation of total income of the investment fund, without giving effect to the provisions of Schedule V (Table: Sl. No. 1), is a loss under any head of income and such loss cannot be or is not wholly set off against income under any other head of income of the said tax year, then out of such loss,—

(*a*) the loss arising to the investment fund as a result of the computation under the head "Profits and gains of business or profession", if any, shall be—

(*i*) allowed to be carried forward and it shall be set off by the investment fund as per the provisions of Chapter VII; and

(*ii*) ignored for the purposes of sub-section (*1*);

(*b*) the loss other than the loss referred to in clause (*a*), if any, shall also be ignored for the purposes of sub-section (*1*), if such loss has arisen in respect of a unit which has not been held by the unit holder for at least twelve months.

(*3*) The loss other than the loss under the head "Profits and gains of business or profession", if any, accumulated at the level of investment fund as on the 31st March, 2019, shall be—

(*a*) deemed to be the loss of a unit holder who held the unit on the 31st March, 2019 in respect of the investments made by him in the investment fund, in the same manner as provided in sub-section (*1*); and

(*b*) allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in as per the provisions of Chapter VII.

(*4*) The loss so deemed under sub-section (*3*) shall not be available to the investment fund on or after the 1st April, 2019.

(*5*) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the investment fund during the tax year subject to the provisions of sub-section (*2*).

(*6*) The total income of the investment fund shall be charged to tax—

(*a*) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(*b*) at maximum marginal rate, in any other case.

(*7*) The income accruing or arising to, or received by, the investment fund, during a tax year, if not paid or credited to the person referred to in sub-section (*1*), shall subject to the provisions of sub-section (*2*), be deemed to have been credited to the account of the said person on the last day of the tax year in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(*8*) Any income, which has been included in total income of the person referred to in sub-section (*1*) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the investment fund.

(*9*) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time, as prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as prescribed.

(*10*) In this section,—

(*a*) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been—

(*i*) granted a certificate of registration as a Category I or a Category II 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; or

15 of 1992.

(*ii*) 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.

(*b*) "trust" means a trust established under the Indian Trusts Act, 1882 or under any other law in force; and

2 of 1882.

(*c*) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

G.—Special provisions relating to income of shipping companies

Income from business of operating qualifying ships.

225. Irrespective of anything contained in sections 26 to 54, in the case of a company, the income from the business of operating qualifying ships—

(*a*) may, at its option, be computed as per provisions of this Part; and

(*b*) such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

Tonnage tax scheme.

226.(1) In this Part, a company shall—

(*a*) be regarded as operating a ship or inland vessel, as the case may be, if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship or inland vessel, as the case may be, has been chartered in by it in an arrangement such as slot charter, space charter or joint charter; and

(*b*) not be regarded as operating a ship or inland vessel, as the case may be, which has been chartered out by it on bareboat charter-*cum*-demise terms or on bareboat charter terms for a period exceeding three years.

(*2*) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(*3*) The tonnage tax business shall be considered as a separate business distinct from all other activities or business carried on by the company.

(*4*) The profits referred to in sub-section (*2*) shall be computed separately from the profits and gains from any other business.

(*5*) The tonnage tax scheme shall apply only if an option to that effect is made as per section 231.

(*6*) Where a company engaged in the business of operating qualifying ships,—

(*a*) is not covered under the tonnage tax scheme; or

(*b*) has not made an option in respect of the tonnage tax scheme as per section 231,

the profits and gains of such company from such business shall be computed as per other provisions of this Act.

(*7*) Subject to the other provisions of this Part,—

(*a*) the tonnage income, shall be—

(*i*) computed as per section 227; and

(*ii*) deemed to be the profits chargeable under the head "Profits and gains of business or profession"; and

(*b*) the relevant shipping income referred to in section 228(*1*) shall not be chargeable to tax.

Computation of tonnage income.

227. (*1*) The tonnage income of a tonnage tax company for a tax year shall be the aggregate of the tonnage income of each qualifying ship computed as per sub-sections (*2*) and (*3*).

(*2*) For the purposes of sub-section (*1*), the tonnage income of each qualifying ship shall be computed as per the following formula:—

TI= DTI x N

where,—

TI = the tonnage income of each qualifying ship;

DTI = the daily tonnage income of each qualifying ship;

N = the number of days, in the tax year, or in part of the tax year in case the ship is operated by the company as a qualifying ship for only part of the tax year.

(*3*) For the purposes of sub-section (*2*), the daily tonnage income of a qualifying ship having tonnage referred to in column A of the Table below shall be the amount specified in the corresponding entry in column B thereof.

Table

Sl. No.	Qualifying ship having net tonnage	Amount of daily tonnage income
A	B	C
1.	Up to 1,000.	₹ 70 for each 100 tons.
2.	Exceeding 1,000 but not more than 10,000.	₹ 700 *plus* ₹ 53 for each 100 tons exceeding 1,000 tons.
3.	Exceeding 10,000 but not more than 25,000.	₹ 5,470 *plus* ₹ 42 for each 100 tons exceeding 10,000 tons.
4.	Exceeding 25,000.	₹ 11,770 *plus* ₹ 29 for each 100 tons exceeding 25,000 tons.

(*4*) In this Part, the tonnage shall—

(*a*) mean the tonnage of a ship or inland vessel, as the case may be, indicated in the certificate referred to in sub-section (*9*); and

(*b*) include the deemed tonnage, being the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel, computed in the manner, as prescribed.

(*5*) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and if the tonnage so rounded off, as per clause (*a*), is not a multiple of hundred, then, if the last figure in that amount is,—

(*a*) fifty tons or more, the tonnage shall be increased to the next higher tonnage;

(*b*) less than fifty tons, the tonnage shall be reduced to the next lower tonnage,

which is a multiple of hundred and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(*6*) No deduction or set off shall be allowed in computing the tonnage income under this Part, irrespective of anything contained in any other provision of this Act.

(*7*) Where a qualifying ship is operated by two or more companies by way of—

(*a*) joint interest in the ship; or

(*b*) an agreement for the use of the ship,

and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(*8*) Subject to the provisions of sub-section (*7*), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

(*9*) In this Part,—

(*a*) the tonnage of a ship or inland vessel, as the case may be, shall be determined as per the valid certificate indicating its tonnage;

(*b*) "valid certificate" means,—

(*i*) in case of ships registered in India,—

(*A*) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958;

44 of 1958.

(*B*) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the said Act;

(*ii*) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration, where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship;

44 of 1958.

(*iii*) in case of inland vessel registered in India, a certificate issued under the Inland Vessels Act, 2021.

24 of 2021.

Relevant shipping income and exclusion from book profit.

228. (1) In this Part, the relevant shipping income of a tonnage tax company means—

(*a*) its profits from core activities referred to in sub-section (*3*); and

(*b*) its profits from incidental activities referred to in sub-section (*7*).

(*2*) Where the aggregate of all such incomes specified in sub-section (*1*)(*b*) exceeds 0.25% of the turnover from core activities referred to in sub-section (*3*), such excess shall not form part of the relevant shipping income for the purposes of this Part and shall be taxable under the other provisions of this Act.

(*3*) The core activities of a tonnage tax company shall be—

(*a*) its activities from operating qualifying ships; and

(*b*) other ship-related or inland vessel related activities, as the case may be, as follows:—

(*i*) shipping contracts in respect of—

(*A*) earning from pooling arrangements;

(*B*) contracts of affreightment;

(*ii*) specific shipping trades, being—

(*A*) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on-board;

(*B*) slot charters, space charters, joint charters, feeder services and container box leasing of container shipping.

(*4*) In sub-section (*3*)(*b*)(*i*),—

(*a*) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships or inland vessels as the case may be, and sharing earnings or operating profits on the basis of mutually agreed terms; and

(*b*) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period.

(*5*) The Central Government, if it considers necessary or expedient so to do, may, by notification, exclude any activity referred to in sub-section 3(*b*) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(*6*) Every notification issued under this Part shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(*7*) The incidental activities shall be the activities which are incidental to the core activities and as prescribed for the purpose.

(*8*) Where a tonnage tax company operates any ship or inland vessels as the case may be, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed under other provisions of this Act.

(*9*) Where any goods or services held for the purposes of—

(*a*) tonnage tax business are transferred to any other business carried on by a tonnage tax company; or

(*b*) any other business carried on by such tonnage tax company are transferred to the tonnage tax business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(*10*) In sub-section (*9*), "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(*11*) Where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner specified in sub-section (*9*) presents exceptional difficulties, he may compute such income on such reasonable basis as he considers fit.

(*12*) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Part, take income as may reasonably be deemed to have been derived therefrom.

(*13*) In this Part, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

(*14*) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(*15*) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purposes of the tonnage tax business and for the other business.

(*16*) The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (*1*), shall be excluded from the book profit of the company for the purposes of section 206.

Depreciation and gains relating to tonnage tax assets.

229. (*1*) For the purposes of computing depreciation under section 230(*1*)(*d*), the depreciation for the first tax year of the tonnage tax scheme (herein referred to as the first tax year) shall be computed on the written down value of the qualifying ships as specified under sub-section (*2*).

(*2*) The written down value of the block of assets, being ships or inland vessels as the case may be, as on the first day of the first tax year, shall be divided in the ratio of the book written down value of the qualifying ships (herein referred to as the qualifying assets) and the book written down value of the non-qualifying ships (herein referred to as the other assets), as per the following formula:—

$$D = A \times \frac{B}{B+C}$$

$$E = A \times \frac{C}{B+C}$$

where,—

D = the written down value of the block of qualifying assets as on the first day of the tax year;

E = the written down value of the block of other assets as on the first day of the tax year;

A = the written down value of the existing block of assets, being ships as on the last day of the immediately preceding tax year;

B = the aggregate of book written down value of qualifying assets as on the last day of the preceding tax year; and

C = the aggregate of the book written down value of other assets as on the last day of the preceding tax year.

(*3*) The block of qualifying assets as determined under sub-section (*2*) shall constitute a separate block of assets for the purposes of this Part.

(*4*) Where an asset forming part of a block of,—

(*a*) qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets as per the following formula:—

$$A = B \times \frac{C}{D}$$

where,—

A = the appropriate portion to be added to the block of the other assets;

B = the written down value of block of qualifying assets as on the first day of the tax year;

C = the book written down value of qualifying asset which begins to be used for purpose other than the tonnage tax business; and

D = the aggregate of book written down value of all the assets forming the block of qualifying assets;

(*b*) other assets, begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset as per the following formula:—

$$E = F \times \frac{G}{I}$$

where,—

E = the appropriate proportion to be added to the block of qualifying asset;

F = the written down value of block of other assets as on the first day of the tax year;

G = book written down value of the other asset which begins to be used for tonnage tax business; and

I = the aggregate of book written down value of all the assets forming the block of other assets.

(*5*) For the purposes of computing depreciation under section 230(*1*)(*d*) in respect of an asset mentioned in sub-sections (*4*)(*a*) and (*b*), the depreciation computed for the tax year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

(*6*) For the removal of doubts, it is hereby declared that for the purposes of this Act, the depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (*2*) had been brought forward from the preceding tax year.

(*7*) In this section,—

(*a*) "book written down value" means the written down value as per books of accounts; and

(*b*) "written down value" means the written down value as calculated for purposes of income-tax.

(*8*) Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax as per sections 67 and 74, and the capital gains so arising shall be computed as per sections 67 to 81.

(*9*) For the purposes of computing such profits or gains, as referred to in sub-section (*8*), the provisions of section 74 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

(*10*) In this section, "written down value of the block of qualifying assets" means the written down value computed as per sub-section (*2*).

Exclusion of deduction, loss, set off etc.,

230. (*1*) Irrespective of anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any tax year (herein referred to as the "relevant tax year") in which it is chargeable to tax as per this Part—

(*a*) sections 28 to 52 shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant tax years, had been given full effect to for that tax year itself;

(*b*) no loss referred to in section 108(1) or (2)(a) or 109 or 112(1) or 116(1), in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the tax years when the company is under the tonnage tax scheme;

(*c*) no deduction shall be allowed under Chapter VIII in relation to the profits and gains from the business of operating qualifying ships; and

(*d*) in computing the depreciation allowance under section 33, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant tax years.

(*2*) Section 112 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the tax years when the company is under the tonnage tax scheme.

(*3*) The losses referred to in sub-section (*2*) shall not be available for set off against any income other than relevant shipping income in any tax year beginning on or after the company exercises its option under section 231.

(*4*) Any apportionment necessary to determine the losses referred to in sub-section (*2*) shall be made on a reasonable basis.

Method of opting of tonnage tax scheme and validity.

231. (*1*) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner, as prescribed, for such scheme.

(*2*) A qualifying company may make an application within three months, of the date of its incorporation, or of the date on which it becomes a qualifying company for the first time.

(*3*) A Unit of an International Financial Services Centre which has availed of deduction under section 147 may make an application within three months from the date on which such deduction ceases.

(*4*) On receipt of an application for option for tonnage tax scheme under sub-section (*1*), the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he shall pass an order in writing—

(*a*) approving the option for tonnage tax scheme; or

(*b*) refusing to approve the option for tonnage tax scheme, if he is not so satisfied,

and a copy of such order shall be sent to the applicant.

(*5*) No order under sub-section 4(*b*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(*6*) Every order under sub-section (*4*) shall be passed before the expiry of three months from the end of the quarter in which the application under sub-section (*1*) was received.

(*7*) Where an order granting approval is passed under sub-section (*4*), the provisions of this Part shall apply from the tax year in which the option for tonnage tax scheme is exercised.

(*8*) An option for tonnage tax scheme, after it has been approved under sub-section (*4*), shall remain in force for ten years from the date on which such option has been exercised and shall be taken into account from the tax year in which such option is exercised.

(*9*) An option for tonnage tax scheme shall cease to have effect from the tax year, in which—

(*a*) the qualifying company ceases to be a qualifying company;

(*b*) a default is made in complying with the provisions contained in section 232(*1*) to (*20*);

(*c*) the tonnage tax company is excluded from the tonnage tax scheme under section 234;

(*d*) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Part may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed as per other provisions of this Act.

(*10*) An option for tonnage tax scheme approved under sub-section (*4*) may be renewed within one year from the end of the tax year in which the option ceases to have effect.

(*11*) The provisions of sub-sections (*1*) to (*10*) shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

(*12*) A qualifying company,—

(*a*) which on its own, opts out of the tonnage tax scheme; or

(*b*) which makes a default in complying with the provisions contained in sections 232(*1*) to (*20*); or

(*c*) whose option has been excluded from tonnage tax scheme in pursuance of an order made under section 234(*4*),

shall not be eligible to opt for tonnage tax scheme for ten years from the date of opting out or default or order.

Certain conditions for applicability of tonnage tax scheme.

232. (*1*) A tonnage tax company shall, subject to and as per the provisions of this section, be required to credit to a reserve account (herein referred to as the Tonnage Tax Reserve Account) an amount, being 20% or more of the book profit derived from the activities referred to in section 228(*1*)(*a*) and (*b*) in each tax year to be utilised in the manner laid down in sub-section (*6*).

(*2*) In this section, "book profit" shall have the meaning assigned to it in section 206(*2*) so far as it relates to the income derived from the activities referred to in section 228(*1*)(*a*) and (*b*).

(*3*) Where the company has—

(*a*) book profit from the business of operating qualifying ships; and

(*b*) book loss from any other sources,

and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (*1*), the company shall create the reserves to the extent possible in that tax year and the shortfall, if any, shall be added to the reserves required to be created for the following tax year and such shortfall shall be deemed to be part of the reserve requirement of that following tax year.

(*4*) For the purposes of sub-section (*3*), to the extent the shortfall in creation of reserves during a particular tax year is carried forward to the following tax year under the said sub-section, the company shall be considered as having created sufficient reserves for the first mentioned tax year.

(*5*) Nothing contained in sub-section (*4*) shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive tax years.

(*6*) The amount credited to the Tonnage Tax Reserve Account under sub-section (*1*) shall be utilised by the company before the expiry of eight years following the tax year in which the amount was credited—

(*a*) for acquiring a new ship or new inland vessel, as the case may be, for the purposes of the business of the company; and

(*b*) until the acquisition of a new ship or new inland vessel, as the case may be, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(*7*) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (*1*),—

(*a*) has been utilised for any purpose other than that referred to in sub-section (*6*); or

(*b*) has not been utilised for the purpose specified in sub-section (*6*)(*a*); or

(*c*) has been utilised for the purpose of acquiring a new ship or new inland vessel, as the case may be, as specified in sub-section (*6*)(*a*), but such ship or new inland vessel, as the case may be, is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the tax year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (*1*) shall be taxable under the other provisions of this Act—

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

(*ii*) in a case referred to in clause (*b*), in the year immediately following eight years specified in sub-section (*6*); or

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

(*8*) The income so taxable under the other provisions of this Act, referred to in sub-section (*7*), shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(*9*) Irrespective of anything contained in any other provision of this Part, where the amount credited to the Tonnage Tax Reserve Account as per sub-section (*1*) is less than the minimum amount required to be credited under sub-section (*1*), an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (*1*), shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(*10*) If the reserve required to be created under sub-section (*1*) is not created for any two consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the failure to create the reserve under sub-section (*1*) had occurred.

(*11*) In this section, "new ship" or "new inland vessel", as the case may be, includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

(*12*) A tonnage tax company, after its option has been approved under section 231(*4*), shall comply with the minimum training requirement in respect of trainee officers as per the guidelines made by the Director-General of Shipping and notified by the Central Government.

(*13*) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping in the form and manner as prescribed, along with the return of income under section 263 to the effect that such company has complied with the minimum training requirement as per the guidelines referred to in sub-section (*12*) for the tax year.

(*14*) If the minimum training requirement is not complied with for any five consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the fifth consecutive tax year in which the failure to comply with the minimum training requirement as per sub-section (*12*) had occurred.

(*15*) In the case of every company which has opted for tonnage tax scheme, not more than 49% of the net tonnage of the qualifying ships operated by it during any tax year shall be chartered in.

(*16*) The proportion of net tonnage referred to in sub-section (*15*) in respect of a tax year shall be calculated based on the average of net tonnage during that tax year.

(*17*) For the purposes of sub-section (*16*), the average of net tonnage shall be computed in such manner, as prescribed, in consultation with the Director-General of Shipping.

(*18*) Where the net tonnage of ships or new inland vessel, as the case may be, chartered in exceeds the limit under sub-section (*15*) during any tax year, the total income of such company in relation to that tax year shall be computed as if the option for tonnage tax scheme does not have effect for that tax year.

(*19*) Where the limit under sub-section (*15*) had exceeded in any two consecutive tax years, the option for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the limit had exceeded.

(*20*) In this section, the term "chartered in" shall exclude a ship or new inland vessel, as the case may be, chartered in by the company on bareboat charter-cum-demise terms.

(*21*) An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a tax year unless such company—

(*a*) maintains separate books of account in respect of the business of operating qualifying ships; and

(*b*) furnishes, before the specified date referred to in sections 63, the report of an accountant, in the prescribed form, duly signed and verified by such accountant.

(*22*) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Part.

(*23*) Where a qualifying company continues to operate a ship or new inland vessel, as the case may be, which temporarily ceases to be a qualifying ship, such ship or inland vessel, as the care may be shall not be deemed as a qualifying ship for the purposes of this Part.

Amalgamation and demerger.

233. (*1*) Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company, if it is a qualifying company.

(*2*) Where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under section 231(*1*) within three months from the date of the approval of the scheme of amalgamation.

(*3*) Where the amalgamating companies are tonnage tax companies, the provisions of this Part shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force.

(*4*) Where one of the amalgamating companies is a qualifying company as on the 1st October, 2004 and which has not exercised the option for tonnage tax scheme before the 1st January, 2005, the provisions of this Part shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed as per the other provisions of this Act.

(*5*) Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Part, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period, if it is a qualifying company.

(*6*) The option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

Avoidance of tax and exclusion from tonnage tax scheme.

234. (*1*) Subject to the provisions of this Part, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(*2*) For the purposes of sub-section (*1*), a transaction or arrangement shall be considered an abuse, if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(*a*) a person other than a tonnage tax company; or

(*b*) a tonnage tax company in respect of its non-tonnage tax activities.

(*3*) In this section, "tax advantage" includes—

(*a*) the determination of—

(*i*) the allowance for any expense or interest; or

(*ii*) any cost or expense allocated or apportioned,

which has the effect of reducing the income or increasing the loss, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the tax year in which the transaction was entered into; or

(*b*) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

(*4*) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (*1*), the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme.

(*5*) The Assessing Officer shall pass an order under sub-section (*4*), after—

(*a*) giving an opportunity to the company by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme; and

(*b*) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner.

(*6*) The provisions of this section shall not apply where the company satisfies the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Part.

(*7*) Where an order has been passed under sub-section (*4*) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the tax year in which the transaction or arrangement was entered into.

Interpretation.

235. In this Part,—

(*a*) "bareboat charter" means hiring of a ship or inland vessel, as the case may be, for a stipulated period on terms which give the charterer possession and control of the ship or new inland vessel, as the case may be, including the right to appoint the master and crew;

(*b*) "bareboat charter-*cum*-demise" means a bareboat charter where the ownership of the ship or inland vessel, as the case may be, is intended to be transferred after a specified period to the company to whom it has been chartered;

(*c*) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under section 7(*1*) of the Merchant Shipping Act, 1958;

44 of 1958.

(*d*) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(*e*) "fishing vessel" shall have the meaning assigned to it in section 3(*12*) of the Merchant Shipping Act, 1958;

44 of 1958.

(*f*) "inland vessel" shall have the meaning assigned to it in section 3(*q*) of the Inland Vessels Act, 2021;

24 of 2021.

(*g*) "pleasure craft" means a ship or inland vessel, as the case may be, of a kind whose primary use is for the purposes of sport or recreation;

(*h*) "qualifying company" means a company, if—

(*i*) it is an Indian company;

(*ii*) the place of effective management of the company is in India;

(*iii*) it owns at least one qualifying ship; and

(*iv*) the main object of the company is to carry on the business of operating ships,

and for the purposes of sub-clause (*ii*), "place of effective management of the company" means—

(*A*) the place where the board of directors of the company or its executive directors, make their decisions; or

(*B*) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

(*i*) "qualifying ship" means a ship or inland vessel, as the case may be, if—

(*i*) it is a seagoing ship or vessel or inland vessel, as the case may be, of fifteen net tonnage or more;

(*ii*) it is a ship registered under the Merchant Shipping Act, 1958, or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or 407 of said Act or an inland vessel registered under the Inland Vessels Act, 2021, as the case may be; and

44 of 1958.

24 of 2021.

(*iii*) a valid certificate in respect of such ship or inland vessel, as the case may be, indicating its net tonnage is in force,

but does not include—

(*A)* a seagoing ship or vessel or inland vessel, as the case may be, if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(*B*) fishing vessels;

(*C*) factory ships;

(*D*) pleasure crafts;

(*E*) harbour and river ferries;

(*F*) offshore installations; and

(*G*) a qualifying ship which is used as a fishing vessel for more than thirty days during a tax year;

(*j*) "seagoing ship" means a ship, if it is certified as such by the competent authority of any country;

(*k*) "tonnage income" means the income of a tonnage tax company computed as per the provisions of this Part;

(*l*) "tonnage tax activities" means the activities referred to in section 228(*3*) and (*7*);

(*m*) "tonnage tax business" means the business of operating qualifying ships giving rise to relevant shipping income as referred to in section 228(*1*);

(*n*) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(*o*) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Part

CHAPTER XIV

TAX ADMINISTRATION

A.—Authorities, jurisdiction and functions

Income-tax authorities.

236. For the purposes of this Act, there shall be the following classes of income-tax authorities:—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(*b*) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax;

(*c*) Directors General of Income-tax or Chief Commissioners of Income-tax;

(*d*) Principal Directors of Income-tax or Principal Commissioners of Income-tax;

(*e*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);

(*f*) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals);

(*g*) Joint Directors of Income-tax or Joint Commissioners of Income-tax or Joint Commissioners of Income-tax (Appeals);

(*h*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax;