(*25*) (*i*) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities;

(*ii*) any income received by the trustees on behalf of a recognised provident fund;

(*iii*) any income received by the trustees on behalf of an approved superannuation fund;

[1][(*iv*) any income received by the trustees on behalf of an approved gratuity fund;]

[2][(*v*) any income received—

(*a*) by the Board of Trustees constituted under the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(*b*) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;]

[3][(*25A*) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);]

[4][(*26*) in the case of a member of a Scheduled Tribe as defined in clause (*25*) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the [5][States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura] or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (*3*) of the said paragraph 20 [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)] [6][or in the Ladakh region of the State of Jammu and Kashmir], any income which accrues or arises to him,—

(*a*) from any source in the areas [7][or States aforesaid], or

(*b*) by way of dividend or interest on securities;]

[8][(*26A*) any income accruing or arising to any person[9]*** from any source in the district of Ladakh or outside India in any previous year relevant to any assessment year commencing before the [10][1st day of April, 1989], where such person is resident in the said district in that previous year:

Provided that this clause shall not apply in the case of any such person unless he was resident in that district in the previous year relevant to the assessment year commencing on the 1st day of April, 1962.

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1. Ins. by Act 16 of 1972, s. 4 (w.e.f. 1-4-1973).
2. Ins. by Act 99 of 1976, s. 40 (w.e.f. 1-8-1976).
3. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1962).
4. Subs. by the North-Eastern Areas (Reorganisation) Adaptation of Laws on Union Subjects) Order, 1974, for clause 26 (w.e.f. 21-1-1972).
5. Subs. by Act 32 of 1994, s. 6, for "States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram" (w.e.f. 1-4-1995).
6. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).
7. Subs. by Act 32 of 1994, s. 6, for "States or Union territories aforesaid" (w.e.f. 1-4-1995).
8. Ins. by Act 15 of 1965, s. 3 (w.e.f. 1-4-1962).
9. The brackets and words "(not being an individual who is in the service of Government)" omitted by Act 32 of 1971, s. 4 (w.e.f. 1-4-1962).
10. Subs. by Act 32 of 1985, s. 4, for "1st day of April, 1986" (w.e.f. 1-4-1985).

[1][*Explanation* 1].—For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (*1*)or sub-section (*2*) or sub-section (*3*) or sub-section (*4*) of section 6, as the case may be, subject to the modifications that—

(*i*) references in those sub-sections to India shall be construed as references to the said district; and

(*ii*) in clause (*i*) of sub-section (*3*), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir and having its registered office in that district in that year.]

[2][*Explanation* 2.—In this clause, references to the district of Ladakh shall be construed as references to the areas comprised in the said district on the 30th day of June, 1979;]

[3]* * * * *

[4][(*26AAA*) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(*a*) from any source in the State of Sikkim; or

(*b*) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

Explanation.—For the purposes of this clause, "Sikkimese" shall mean—

(*i*) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

(*ii*) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(*iii*) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grand-father or brother from the same father has been recorded in that register;]

[5][(*26AAB*) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;]

[6][(*26B*) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the [7][members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them].

1. The *Explanation* renumbered as *Explanation* 1 by Act 11 of 1983, s. 5 (w.e.f. 1-4-1980).
2. Ins. by s. 5, *ibid*. (w.e.f. 1-4-1980).
3. Clause (*26AA*) omitted by Act 26 of 1997, s. 3 (w.e.f. 1-4-1998).
4. Ins. by Act 18 of 2008, s. 4 (w.e.f. 1-4-1990).
5. Ins. by s. 4, *ibid*. (w.e.f. 1-4-2009).
6. Ins. by Act 13 of 1980, s. 3 (w.e.f. 1-4-1972).
7. Subs. by Act 32 of 1994, s. 6, for "members of either the Scheduled Castes or the Scheduled Tribes or of both" (w.e.f. 1-4-1993).

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

(*a*) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (*24*) and (*25*) of article 366 of the Constitution;

(*b*) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—

(*i*) by the Central Government; or

(*ii*) by any State Government,

as the case may be, from time to time;]]

[2][(*26BB*) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

Explanation.—For the purposes of this clause, "minority community" means a community notified as such by the Central Government in the Official Gazette in this behalf;]

[3][(*26BBB*) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

Explanation.—For the purposes of this clause, "ex-serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;]

[4][(*27*) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (*26B*):

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;]

[5]* * * * *

[6]* * * * *

[7][(*29A*) any income accruing or arising to—

(*a*) the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

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1. Subs. by Act 32 of 1994, s. 6, for the *Explanation* (w.e.f. 1-4-1993).
2. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1995).
3. Ins. by Act 32 of 2003, s. 6 (w.e.f. 1-4-2004).
4. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1989).
5. Clause (*28*) omitted by Act 26 of 1997, s. 3 (w.e.f. 1-4-1998).
6. Clause (*29*) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).
7. Ins. by Act 27 of 1999, s. 6 (w.e.f. 11-5-1999).

(*b*) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(*c*) the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(*d*) the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later;

(*e*) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later;

(*f*) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;

(*g*) the Spices Board constituted under sub-section (*1*) of section 3 of the Spices Board Act, 1986 (10 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later;]

[1][(*h*) the Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953);]

[2][(*30*) in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation or replacement of tea bushes [3][or for rejuvenation or consolidation of areas used for cultivation of tea] as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the [4][Assessing Officer], along with his return of incomefor the assessment year concerned or within such further time as the [4][Assessing Officer] may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);]

[5][(*31*) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

1. Ins. by Act 18 of 2008, s. 4 (w.e.f. 1-4-2002).
2. Ins. by Act 42 of 1970, s. 3 (w.e.f. 1-4-1969).
3. Ins. by Act 21 of 1984, s. 3 (w.e.f. 1-4-1985).
4. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
5. Ins. by Act 26 of 1988, s. 4 (w.e.f. 1-4-1989).

Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, "concerned Board" means,—

(*i*) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),

(*ii*) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),

(*iii*) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

(*iv*) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf;]

[1][(*32*) in the case of an assessee referred to in sub-section (*1A*) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;]

[2][(*33*) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and where the transfer of such asset takes place on or after the 1st day of April, 2002;]

[2][(*34*) any income by way of dividends referred to in section 115-O;

[3][Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA;]

[4]* * * * *

[5][(*34A*) any income arising to an assessee, being a shareholder, on account of buy back of shares (not being listed on a recognised stock exchange) by the company as referred to in section 115QA;]

(*35*) any income by way of,—

(*a*) income received in respect of the units of a Mutual Fund specified under clause (*23D*); or

(*b*) income received in respect of units from the Administrator of the specified undertaking; or

(*c*) income received in respect of units from the specified company:

Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

Explanation.—For the purposes of this clause,—

(*a*) "Administrator" means the Administrator as referred to in clause (*a*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

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1. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1993).
2. Ins. by Act 32 of 2003, s. 6 (w.e.f. 1-4-2004).
3. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).
4. The *Explanation* omitted by Act 8 of 2011, s. 4 (w.e.f. 1-6-2011).
5. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

(*b*) "specified company" means a company as referred to in clause (*h*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

[1][(*35A*) any income by way of distributed income referred to in section 115TA received from a securitisation trust by any person being an investor of the said trust.

[2][Provided that nothing contained in this clause shall apply to any income by way of distributed income referred to in the said section, received on or after the 1st day of June, 2016.]

Explanation.—For the purposes of this clause, the expressions "investor" and "securitisation trust" shall have the meanings respectively assigned to them in the Explanation below[3][section 115TCA];

(*36*) any income arising from the transfer of a long-term capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

Explanation.—For the purposes of this clause, "eligible equity share" means,—

(*i*) any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(*ii*) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India;]

[4][(*37*) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—

(*i*) such land is situate in any area referred to in item (a) or item (b) of sub-clause (*iii*) of clause (*14*) of section 2;

(*ii*) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

(*iii*) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;

(*iv*) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

Explanation.—For the purposes of this clause, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority;

[5][(*37A*) any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014 and transfers that specified capital asset under the Land Pooling Scheme (herein referred to as "the scheme") covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 (Andhra Pradesh 11 of 2014) and the rules, regulations and Schemes made under the said Act.

Explanation.—For the purposes of this clause, "specified capital asset" means,—

(*a*) the land or building or both owned by the assessee as on the 2nd day of June, 2014 and which has been transferred under the scheme; or

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1. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).
2. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).
3. Subs. by s. 7, *ibid*., for "section 115TC" (w.e.f. 1-4-2017).
4. Ins. by Act 23 of 2004, s. 5 (w.e.f. 1-4-2005).
5. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2015).

(*b*) the land pooling ownership certificate issued under the scheme to the assessee in respect of land or building or both referred to in clause (*a*); or

(*c*) the reconstituted plot or land, as the case may be, received by the assessee *in lieu* of land or building or both referred to in clause (*a*) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him;]

(*38*) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund [1][or a unit of a business trust] where—

(*a*) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and

(*b*) such transaction is chargeable to securities transaction tax under that Chapter:

[2][Provided that the income by way of long-term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB:]

[3]* * * * *

[4][Provided also that nothing contained in sub-clause (*b*) shall 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.]

[5][Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).]

[6][Provided also that nothing contained in this clause shall apply to any income arising from the transfer of 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, made on or after the 1st day of April, 2018.]

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

(*a*) "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent.. of the total proceeds of such fund; and

(*ii*) which has been set up under a scheme of a Mutual Fund specified under clause (*23D*):

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;]

(*b*) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

1. Ins. by Act 25 of 2014, s. 5 (w.e.f. 1-4-2015).
2. Ins. by Act 21 of 2006, s. 4 (w.e.f. 1-4-2007).
3. The second proviso omitted by Act 20 of 2015, s. 7 (w.e.f. 1-4-2016).
4. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2016).
5. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).
6. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).
7. Subs. by Act 28 of 2016, s. 7, for the *Explanation* (w.e.f. 1-4-2016).

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

[1][(*39*) any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(*a*) is approved by the international body regulating the international sport relating to such event;

(*b*) has participation by more than two countries;

(*c*) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "the specified income" means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

(*40*) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (*a*) of clause (*v*) of sub-section (*4*) of section 80-IA;

(*41*) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006, to the Indian company notified under sub-clause (*a*) of clause (*v*) of sub-section (*4*) of section 80-IA;]

[2][(*42*) any specified income arising to a body or authority which—

(*a*) has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government;

(*b*) is established or constituted or appointed not for the purposes of profit;

(*c*) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "specified income" means the income, of the nature and to the extent, arising to the body or authority referred to in this clause, which the Central Government may notify in this behalf;]

[3][(*43*) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (*xvi*) of section 47;]

[4][(*44*) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1882);]

[5][(*45*) any allowance or perquisite, as may be notified by the Central Government in the Official Gazette in this behalf, paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Service Commission;]

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1. Ins. by Act 55 of 2005, s. 2 (w.e.f. 1-4-2006).
2. Ins. by Act 21 of 2006. s. 4 (w.e.f. 1-4-2007).
3. Ins. by Act 43 of 2008, s. 4 (w.e.f. 1-4-2008).
4. Ins. by Act 33 of 2009, s. 4 (w.e.f. 1-4-2009).
5. Ins. by Act 8 of 2011, s. 4 (w.e.f. 1-4-2008).

[1][(*46*) any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) [2][, or a class thereof] which—

(*a*) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(*b*) is not engaged in any commercial activity; and

(*c*) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission (by whatever name called) [2][, or a class thereof] referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*47*) any income of an infrastructure debt fund, set up in accordance with the guidelines as may be prescribed, which is notified by the Central Government in the Official Gazette for the purposes of this clause;]

[3][(*48*) any income received in India in Indian currency by a foreign company on account of [4][sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person] in India:

Provided that—

(*i*) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;

(*ii*) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf; and

(*iii*) the foreign company is not engaged in any activity, other than receipt of such income, in India;]

[5][(*48A*) any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India:

Provided that—

(*i*) the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

(*ii*) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf;]

[6][(*48B*) any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (*48A*) [7][or on termination of the said agreement or the arrangement, in accordance with the terms mentioned therein, as the case may be,] subject to such conditions as may be notified by the Central Government in this behalf;]

[8][(*49*) any income of the National Financial Holdings Company Limited, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing on or before the 1st day of April, 2014;]

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1. Ins. by Act 8 of 2011, s. 4 (w.e.f. 1-6-2011).
2. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).
3. Ins. by Act 23 of 2012, s. 5 (w.e.f. 1-4-2012).
4. Subs. by Act 17 of 2013, s. 5, for "sale of crude oil to any person" (w.e.f. 1-4-2014).
5. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2016).
6. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).
7. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2019).
8. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

[1][(*50*) any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force and chargeable to equalisation levy under that Chapter.

Explanation.—For the purposes of this clause, "specified service" shall have the meaning assigned to it in clause (i) of section 164 of Chapter VIII of the Finance Act, 2016.]

[2]**[10A. Special provision in respect of newly established undertakings in free trade zone, etc**.—(*1*) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years:

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the [3][undertaking began to manufacture or produce such articles or things or computer software] in such free trade zone or export processing zone:

[4]* * * * *

[5][Provided also that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent. of the profits and gains derived by an undertaking from the export of such articles or things or computer software:]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the [6][1st day of April, 2012] and subsequent years.

[7][(*1A*) Notwithstanding anything contained in sub-section (*1*), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,—

(*i*) hundred per cent. of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent. of such profits and gains for further two consecutive assessment years, and thereafter;

(*ii*) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Allowance Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (*1B*):

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1. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-6-2016).
2. Subs. by Act 10 of 2000. s. 6, for section 10A (w.e.f. 1-4-2001).
3. Subs. by Act 14 of 2001, s. 6, for "undertaking was first set up" (w.e.f. 1-4-2001).
4. The third proviso omitted by s. 6, *ibid.* (w.e.f. 1-4-2002).
5. Ins. by Act 20 of 2002, s. 5 (w.e.f. 1-4-2003).
6. Subs. by Act 33 of 2009, s. 5, for "1st day of April, 2011" (w.e.f. 1-4-2009).
7. Subs. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).

[1][Provided that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (*1*) of section 139.]

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

(*a*) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised—

(*i*) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(*ii*) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking 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;

(*b*) the particulars, as may be prescribed in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(*1C*) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause (*ii*) of sub-section (*1A*),—

(*a*) has been utilised for any purpose other than those referred to in sub-section (*1B*), the amount so utilised; or

(*b*) has not been utilised before the expiry of the period specified in sub-clause (*i*) of clause (*a*) of sub-section (*1B*), the amount not so utilised,

shall be deemed to be the profits,—

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

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of three years specified in sub-clause (*i*) of clause (*a*) of sub-section (*1B*),

and shall be charged to tax accordingly.]

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

(*i*) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year—

(*a*) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(*b*) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park, or, as the case may be, software technology park;

(*c*) commencing on or after the 1st day of April, 2001 in any special economic zone;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*iii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

1. Ins. by Act 18 of 2005, s. 5 (w.e.f. 1-4-2006).

Explanation.—The provisions of *Explanation* 1 and *Explanation* 2 to sub-section (*2*) of section 80-I shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(*3*) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2.—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

[1][(*4*) For the purposes of [2][sub-sections (*1*) and (*1A*)], the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(*5*) The deduction under [3][this section] shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(*6*) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(*i*) section 32, section 32A, section 33, section 35 and clause (*ix*) of sub-section (*1*) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years [4][ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (*2*) of section 32, clause (*ii*) of sub-section (*3*) of section 32A, clause (*ii*) of sub-section (*2*) of section 33, sub-section (*4*) of section 35 or the second proviso to clause (ix) of sub-section (*1*) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(*ii*) no loss referred to in sub-section (*1*) of section 72 or sub-section (*1*) or sub-section (*3*) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years [4][ending before the 1st day of April, 2001];

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

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1. Ins. by Act 14 of 2001, s. 6 (w.e.f. 1-4-2001).
2. Subs. by Act 32 of 2003, s. 7, for "sub-section (*1*)" (w.e.f. 1-4-2003).
3. Subs. by s. 7, *ibid*., for "sub-section (*1*)" (w.e.f. 1-4-2003).
4. Ins. by s. 7, *ibid.* (w.e.f. 1-4-2001).

(*7*) The provisions of sub-section (*8*) and sub-section (*10*) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

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

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

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

[2][(*7B*) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.

(*8*) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (*1*) of section 139,furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

[3]* * * * *

[4]* * * * *

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

(*i*) "computer software" means—

(*a*) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(*b*) any customized electronic data or any product or service of similar nature, as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

(*ii*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of [5][the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(*iii*) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(*iv*) "export turnover" means the consideration [6][in respect of export by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (*3*), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

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1. Ins. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).
2. Ins. by Act 28 of 2005, s. 37 and the Second Schedule (w.e.f. 10-2-2006).
3. Sub-sections (*9*) and (*9A*) omitted by Act 32 of 2003, s. 7 (w.e.f. 1-4-2003).
4. *Explanation* 1 omitted by s. 7, *ibid*. (w.e.f. 1-4-2004).
5. Subs. by Act 17 of 2013, s. 4, for "Foreign Exchange Regulation Act, 1973 (46 of 1973)" (w.e.f. 1-4-2013).
6. Subs. by Act 14 of 2001, s. 6, for "in respect of export" (w.e.f. 1-4-2001).

(*v*) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(*vi*) "relevant assessment year" means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(*vii*) "software technology park" means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(*viii*) "special economic zone" means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.]

[1][*Explanation* 3.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

[2][*Explanation* 4.—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.]

10AA.[3][**Special provisions in respect of newly established Units in Special Economic Zones.**—(*1*) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (*j*) of section 2 of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of [4][April, 2006, a deduction of]—

(*i*) hundred per cent. of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent. of such profits and gains for further five assessment years and thereafter;

(*ii*) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilized for the purposes of the business of the assessee in the manner laid down in sub-section (*2*).

[5][*Explanation*.—For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.]

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

(*a*) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised—

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1. Ins. by Act 14 of 2001, s. 6 (w.e.f. 1-4-2001).
2. Ins. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).
3. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).
4. Subs. by Act 28 of 2016, s. 8, for the words, figures and letters "April, 2006, a deduction of" (w.e.f. 1-4-2017).
5. Ins. Act 7 of 2017, s. 7 (w.e.f. 1-4-2018).

(*i*) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(*ii*) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking 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;

(*b*) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (*b*) of sub-section (*1B*) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(*3*) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (*ii*) of sub-section (*1*),—

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

(*b*) has not been utilised before the expiry of the period specified in sub-clause (*i*) of clause (*a*) of sub-section (*2*), the amount not so utilised,

shall be deemed to be the profits,—

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

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

and shall be charged to tax accordingly:

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (*7B*) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (*ii*) of sub-section (*1*).

Explanation.—For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section:

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone:

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (*ii*) of sub-section (*1*) with effect from the 1st day of April, 2006.

[1][(*4*) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(*i*) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*iii*) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations* 1 and 2 to sub-section (*3*) of section 80-IA shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.]

(*5*) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(*6*) Loss referred to in sub-section (*1*) of section 72 or sub-section (*1*) or sub-section (*3*) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(*7*) For the purposes of sub-section (*1*), the profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on [2][by the undertaking]:

[3][Provided that the provisions of this sub-section [as amended by section 6 of the Finance (No. 2) Act, 2009 (33 of 2009)] shall have effect for the assessment year beginning on the 1st day of April, 2006 and subsequent assessment years.]

(*8*) The provisions of sub-sections (*5*) and (*6*) of section 10A shall apply to the articles or things or services referred to in sub-section (*1*) as if—

(*a*) for the figures, letters and word "1st April, 2001", the figures, letters and word "1st April, 2006" had been substituted;

(*b*) for the word "undertaking", the words "undertaking, being the Unit" had been substituted.

(*9*) The provisions of sub-section (*8*) and sub-section (*10*) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

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1. Subs. by Act 22 of 2007, s. 7, for certain words (w.e.f. 10-2-2006).
2. Subs. by Act 33 of 2009, s. 6, for "by the assessee" (w.e.f. 1-4-2010).
3. Ins. by Act 14 of 2010, s. 6 (w.e.f. 1-4-2010).

[1][(*10*) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in clause (*c*) of sub-section (*8*) of section 35AD, for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.]

Explanation 1.—For the purposes of this section,—

(*i*) "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(*ii*) "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(*iii*) "manufacture" shall have the same meaning as assigned to it in clause (*r*) of section 2 of the Special Economic Zones Act, 2005;

(*iv*) "relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(*v*) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clauses (*za*) and (*zc*) of section 2 of the Special Economic Zones Act, 2005.

Explanation 2.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

[2]**[10B. Special provisions in respect of newly established hundred per cent. export-oriented undertakings.**— (*1*) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent. export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years:

[3][Provided[4][further] that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent. of the profits and gains derived by an undertaking from the export of such articles or things or computer software:]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the [5][1st day of April, 2012] and subsequent years:

[6][Provided also that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (*1*) of section 139.]

1. Ins. by Act 25 of 2014, s. 6, (w.e.f. 1-4-2015).
2. Subs. by Act 10 of 2000, s. 7, for section 10B (w.e.f. 1-4-2001).
3. Ins. by Act 20 of 2002, s. 6 (w.e.f. 1-4-2003).
4. Subs. by Act 21 of 2006, s. 5, for "also" (w.e.f. 1-4-2006).
5. Subs. by Act 33 of 2009 s. 7, for "1st day of April 2011" (w.e.f. 1-4-2009).
6. Ins. by Act 21 of 2006, s. 5 (w.e.f. 1-4-2006).

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

(*i*) it manufactures or produces any articles or things or computer software;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*iii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation* 1 and *Explanation* 2 to sub-section (*2*) of section 80-I shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(*3*) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2.—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

[1][(*4*) For the purposes of sub-section (*1*), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(*5*) The deduction under sub-section (*1*) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(*6*) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(*i*) section 32, section 32A, section 33, section 35 and clause (*ix*) of sub-section (*1*) of section 35 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years [2][ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (*2*) of section 32, clause (*ii*) of sub-section (*3*) of section 32A, clause (*ii*) of sub-section (*2*) of section 33, , sub-section (*4*) of section 35 or the second proviso to clause (*ix*) of sub-section (*1*) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

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1. Subs. by Act 14 of 2001, s. 7, for sub-section (*4*) (w.e.f. 1-4-2001).

2. Ins. by Act 32 of 2003, s. 8, (w.r.e.f. 1-4-2001).

(*ii*) no loss referred to in sub-section (*1*) of section 72 or sub-section (*1*) or sub-section (*3*) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years [1][ending before the 1st day of April, 2001;]

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80IA or section 80-IB in relation to the profits and gains of the undertaking; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(*7*) The provisions of sub-section (*8*) and sub-section (*10*) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

[2][(*7A*) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

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

(*8*) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (*1*) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment year.

[3]* * * * *

[4]* * * * *

[5]* * * * *

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

(*i*) "computer software" means—

(*a*) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(*b*) any customized electronic data or any product or service of similar nature as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

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1. Ins. by Act 32 of 2003, s. 8 (w.r.e.f. 1-4-2001).

2. Ins. by s. 8, *ibid.* (w.e.f. 1-4-2004).

3. Clause (*9*) omitted by, s. 8 (w.e.f. 1-4-2004).

4. Clause (*9A*) omitted by s. 8 *ibid.* (w.e.f. 1-4-2004).

5. *Explanation 1* omittedby s. 8 *ibid*. (w.e.f. 1-4-2004).

(*ii*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of [1][the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder or any other corresponding law for the time being in force;

(*iii*) "export turnover" means the consideration [2][in respect of export by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (*3*), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(*iv*) "hundred per cent. export-oriented undertaking" means an undertaking which has been approved as a hundred per cent. export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(*v*) "relevant assessment years" means any assessment years falling within a period of ten consecutive assessment years, referred to in this section.]

[3][*Explanation* 3.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

[4][*Explanation* 4.—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.]

[5][**10BA. Special provisions in respect of export of certain articles or things.**— (*1*) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section:

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(*2*) This section applies to any undertaking which fulfils the following conditions, namely:—

(*a*) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(*b*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*c*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation* 1 and *Explanation* 2 to sub-section (*2*) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (*ii*) of sub-section (*2*) of that section;

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1. Subs. by Act 17 of 2013, s. 4, for "the Foreign Exchange Regulation Act, 1973 (46 of 1973)" (w.e.f. 1-4-2013).
2. Subs. by Act 14 of 2001, s. 7, for the words "in the respect of export" (w.e.f. 1-4-2001).
3. Ins. by s. 7, *ibid*. (w.e.f. 1-4-2001).
4. Ins. by Act 32 of 2003, s. 8 (w.e.f. 1-4-2004).
5. Ins. by Act 54 of 2003, s. 3 (w.e.f. 1-4-2004).

(*d*) ninety per cent. or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(*e*) it employs twenty or more workers during the previous year in the process of manufacture or production.

(*3*) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation.—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(*4*) For the purposes of sub-section (*1*), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(*5*) The deduction under sub-section (*1*) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(*6*) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(*7*) The provisions of sub-section (*8*) and sub-section (*10*) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation.—For the purposes of this section,—

(*a*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(*b*) "eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(*c*) "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (*3*), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(*d*) "export out of India" shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962 (52 of 1962).]

[1][**10BB. Meaning of computer programmes in certain cases.—**The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.]

1. Ins. by Act 14 of 2001, s. 8 (w.e.f. 1-4-1994).

[1][**10C. Special provision in respect of certain industrial undertakings in North-Eastern Region.**—(*1*) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(*2*) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

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

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation* 1 and *Explanation* 2 to sub-section (*3*) of section 80-IA shall apply for the purposes of clause (*ii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(*3*) The profits and gains referred to in sub-section (*1*) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

(*4*) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(*i*) section 32, section 35 and clause (*ix*) of sub-section (*1*) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (*2*) of section 32, sub-section (*4*) of section 35 or the second proviso to clause (*ix*) of sub-section (*1*) of section 36, as the case may be, shall not apply in relation to any such deduction;

(*ii*) no loss referred to in sub-section (*1*) of section 72 or sub-section (*1*) or sub-section (*3*) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(*5*) The provisions of sub-section (*8*) and sub-section (*10*) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80IB, as the case may be.

1. Ins. by Act 27 of 1999, s. 7 (w.e.f. 1-4-1999).

(*6*) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (*1*) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years:

[1][Provided that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.]

Explanation.—For the purposes of this section,—

(*i*) "Integrated Infrastructure Development Centre" means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section;

(*ii*) "Industrial Growth Centre" means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(*iii*) "North-Eastern Region" means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(*iv*) "relevant assessment years" means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.]

[2]**[11. Income from property held for charitable or religious purposes**.—(*1*) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

[3][(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of [4][fifteen per cent.] of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of [4][fifteen per cent.] of the income from such property;

(*c*) income [5][derived from property held under trust]—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

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1. Ins. by Act 32 of 2003, s. 9 (w.e.f. 1-4-2004).
2. Section 11 restored by Act 3 of 1989, s. 95 with amendments (w.e.f. 1-4-1989). Earlier omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).
3. Subs. by Act 41 of 1975, s. 4, for clauses (*a*) and (*b*) (w.e.f. 1-4-1976).
4. Subs. by Act 20 of 2002, s. 7, for "twenty-five per cent." (w.e.f. 1-4-2003).
5. Ins. by Act 16 of 1972, s. 5 (w.e.f. 1-4-1973).

[1][(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

[2][*Explanation* [3][1].—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the [4][fifteen per cent.] of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of [5][eighty-five per cent.] of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income [6][(such option to be exercised before the expiry of the time allowed under sub-section (*1*) of section 139 for furnishing the return of income, in such form and manner as may be prescribed)] be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.]

[7][*Explanation* 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation* 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.]

[8][*Explanation* 3.—For the purposes of determining the amount of application under clause (a) or clause (b), the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession.]

[9][(*1A*) For the purposes of sub-section (*1*),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

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1. Ins. by Act 3 of 1989, s. 5 (w.e.f. 1-4-1989).
2. Subs. by Act 41 of 1975, s. 4, for *Explanation* (w.e.f. 1-4-1976).
3. The *Explanation* renumbered as *Explanation* 1 thereof by Act 7 of 2017, s. 8 (w.e.f. 1-4-2018).
4. Subs. by Act 20 of 2002, s. 7 for "twenty-five per cent." (w.e.f. 1-4-2003).
5. Subs. by s. 7, *ibid.*, for "seventy-five per cent." (w.e.f. 1-4-2003).
6. Subs. by Act 20 of 2015, s. 8, for "(such option to be exercised in writing before the expiry of the time allowed under sub-section (*1*) of section 139 for furnishing the return of income)" (w.e.f. 1-4-2016).
7. Ins. by Act 7 of 2017, s. 8 (w.e.f. 1-4-2018).
8. Ins. by Act 13 of 2018, s. 6 (w.e.f. 1-4-2019).
9. Ins. by Act 32 of 1971, s. 5 (w.r.e.f. 1-4-1962).

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of section 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

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

[1][(*1B*) Where any income in respect of which an option is exercised under clause (*2*) of the Explanation to sub-section (*1*) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.

[2][(*2*) [3][Where [4][eighty-five per cent.] of the income referred to in clause (*a*) or clause (*b*) of sub-section (*1*) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—]

[5][(*a*) such person furnishes a statement in the prescribed form and in the prescribed[3] manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and

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

2. Subs. by Act 19 of 1970, s. 5, for sub-section (2) (w.e.f. 1-4-1971).

3. Subs. by Act 41 of 1975, s. 4, for certain words (w.e.f. 1-4-1976).

4. Subs. by Act 20 of 2002, s. 7, for "seventy-five per cent." (w.e.f. 1-4-2003).

5. Subs. by Act 20 of 2015, s. 8, for clauses (*a*), (*b*) and the first and second provisos (w.e.f. 1-4-2016).

the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (*5*);

(*c*) the statement referred to in clause (*a*) is furnished on or before the due date specified under sub-section (*1*) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.]]

[1][*Explanation*.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (*1*), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.]

[2][(*3*) Any income referred to in sub-section (*2*) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

[3][(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (*5*), or]

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section or in the year immediately following the expiry thereof,

[1][(*d*) is credited or paid to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10,]

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or credited or paid or, as the case may be, of the previous year immediately following the expiry of the period aforesaid.

[4][(*3A*) Notwithstanding anything contained in sub-section (*3*), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (*2*) cannot be applied for the purpose for which it was accumulated or set apart, the [5][Assessing Officer]may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (*3*) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the [5][Assessing Officer] under clause (*a*) ofsub-section (*2*):

1. Ins. by Act 20 of 2002, s. 7 (w.e.f. 1-4-2003).

2. Subs. by Act 19 of 1970, s. 5, for sub-section (*3*) (w.e.f. 1-4-1971).

3. Subs. by Act 11 of 1983, s. 39, for clause (*b*) (w.e.f. 1-4-1983).

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

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

[1][Provided that the [2][Assessing Officer] shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (*3*) of section 11:]

[3][Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (*2*), is dissolved, the [2][Assessing Officer] may allow application of such income for the purposes referred to in clause (*d*) of sub-section (*3*) in the year in which such trust or institution was dissolved.]

(*4*) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the [2][Assessing Officer] shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes [4]***.

[5][(*4A*) Sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*3A*) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.]

[6][(*5*) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (*2*) shall be the following, namely:—

(*i*) investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

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

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

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

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1. Ins. byAct 20 of 2002, s. 7 (w.e.f. 1-4-2003).

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

3. Ins. by Act 32 of 2003, s. 10 (w.e.f. 1-4-2003).

4. The words brackets and figures "and accordingly chargeable to tax within the meaning of sub-section (*3*)" omitted by Act 19 of 1970, s. 5 (w.e.f. 1-4-1971).

5. Subs. by Act 49 of 1991, s. 6, for sub-section (*4A*) (w.e.f. 1-4-1992).

6.Ins. by Act 11 of 1983, s. 6 (w.e.f. 1-4-1984).

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any [1][public sector company]:

[2][Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;]

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and [3][which is eligible for deduction under clause (*viii*) of sub-section (*1*) of section 36];

(*ix*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and [3][which is eligible for deduction under clause (*viii*) of sub-section (*1*) of section 36];

[4][(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

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

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

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;]

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;]

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1. Subs. by Act 3 of 1989, s. 5, for "Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-4-1989).

2. Ins. by Act 10 of 2000, s. 8 (w.e.f. 1-4-2001).

3. Subs. by s. 8, *ibid*., for "which is approved by the Central Government of the purposes of clause (*viii*) of sub-section (*10*) of section 36" (w.e.f. 1-4-2001).

4. Ins. by s. 8, *ibid*. (w.e.f. 1-4-2001).

[1][(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);]

[2][(*xii*) any other form or mode of investment or deposit as may be prescribed.]

[3][(*6*) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(*7*) Where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) of section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (*1*) and clause (*23C*) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year.]

[4]**[12. Income of trusts or institutions from contributions.**—[5][(*1*)] Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.]

[6][(*2*) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (*3*) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (*1*) of section 11.

Explanation.—For the purposes of this sub-section, the expression "value" shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (*3*) of section 13.]

[7][(*3*) Notwithstanding anything contained in section 11, any amount of donation received by the trust or institution in terms of clause (*d*) of sub-section (*2*) of section 80G [8][in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (*v*) of sub-section (*5C*) of that section, in the manner specified in that clause, or] which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (*5C*) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, [9][2004] shall be deemed to be the income of the previous year and shall accordingly be charged to tax.]

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1. Ins. by Act 21 of 1984, s. 4 (w.e.f. 1-4-1985).
2. Ins. by Act 3 of 1989, s. 5 (w.e.f. 1-4-1989).
3. Ins. by Act 25 of 2014, s. 7 (w.e.f. 1-4-2015).
4. Sections 12 and 12A restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier section 12 was omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).
5. Section 12 renumbered as sub-section (*1*) therof by Act 10 of 2000, s. 9 (w.e.f. 1-4-2001).
6. Ins. by s. 9, *ibid*. (w.e.f. 1-4-2001).
7. Ins. by Act 4 of 2001, s. 5 (w.e.f. 3-2-2001).
8. Ins. by Act 20 of 2002, s. 8 (w.e.f. 3-2-2001).
9. Subs. by Act 32 of 2003, s. 11, for the figures "2003" (w.e.f. 3-2-2001).

12A. [1][**Conditions for applicability of sections 11 and 12.]**—[2][(*1*)] The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*a*) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the [3]*** [4][Principal Commissioner or Commissioner] before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, [5][whichever is later and such trust or institution is registered under section 12AA]:

[6][Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of section 11 and 12 shall apply in relation to the income of such trust or institution,—

(*i*) from the date of the creation of the trust or the establishment of the institution if the [3]*** [4][Principal Commissioner or Commissioner] is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(*ii*) from the 1st day of the financial year in which the application is made, if the [3]*** [4][Principal Commissioner or Commissioner] is not so satisfied:]

[7][Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;]

[7][(*aa*) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the [4][Principal Commissioner or Commissioner] and such trust or institution is registered under section 12AA;]

[8][(*ab*) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;]

(*b*) where the total income of the trust or institution as computed under this Act without giving effect to the [9][provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year], the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (*2*) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

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1. Subs. by Act 22 of 2007, s. 8, for "Conditions as to registration of trusts, etc." (w.e.f. 1-6-2007).
2. Section 12A renumbered as sub-section (*1*) thereof by s. 8 *ibid*. (w.e.f. 1-6-2007).
3. The words "chief commissioner or" omitted by Act 27 of 1999, s. 8 (w.e.f. 1-6-1999).
4. Subs. by Act 25 of 2014, s. 4, for "Commissioner" (w.r.e.f. 1-6-2013).
5. Subs. by Act 33 of 1996, s. 5, for "whichever is later" (w.e.f. 1-4-1997).
6. The proviso substituted by Act 49 of 1991, s. 7, (w.e.f. 1-10-1991).
7. Ins. by Act 22 of 2007, s. 8 (w.e.f. 1-6-2007).
8. Ins. by Act 7 of 2017, s. 9 (w.e.f. 1-4-2018).
9. Subs by Act 29 of 2006, s. 4, for certain words and figures (w.e.f. 1-4-2006).

[1][(*ba*) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (*4A*) of section 139, within the time allowed under that section;]

[2]* * * * *

[3][(*2*) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:]

[4][Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.]

[5]**[12AA. Procedure for registration**.— (*1*) The [6]*** [7][Principal Commissioner or Commissioner], on receipt of an application for registration of a trust or institution made under clause (*a*) [8][or clause (*aa*) [9][or clause (*ab*)] of sub-section (*1*)] of section 12A, shall—

(*a*) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(*b*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(*i*) shall pass an order in writing registering the trust or institution;

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

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

Provided that no order under sub-clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

1. Ins. by Act 7 of 2017, s. 9 (w.e.f. 1-4-2018).
2. Clause (*c*) omitted by Act 20 of 2002, s. 9 (w.e.f. 1-4-2002).
3. Ins. by Act 22 of 2007, s. 8 (w.e.f. 1-6-2007).
4. Ins. by Act 25 of 2014, s. 8 (w.e.f. 1-10-2014).
5. Ins. by Act 33 of 1996, s. 6 (w.e.f. 1-4-1997).
6. The words "chief commissioner or" omitted by Act 27 of 1999, s. 8 (w.e.f. 1-6-1999).
7. Subs. by Act 25 of 2014, s. 4, for "Commissioner" (w.e.f. 1-6-2013)
8. Ins. by Act 22 of 2007, s. 9 (w.e.f. 1-6-2007).
9. Ins. by Act 7 of 2017, s. 10 (w.e.f. 1-4-2018).

[1][(*1A*) All applications, pending before the [2][Principal Chief Commissioner or Chief Commissioner] on which no order has been passed under clause (*b*) of sub-section (*1*) before the 1st day of June, 1999, shall stand transferred on that day to the [3][Principal Commissioner or Commissioner] and the [3][Principal Commissioner or Commissioner] may proceed with such applications under that sub-section from the stage at which they were on that day.]

(*2*) Every order granting or refusing registration under clause (*b*) of sub-section (*1*) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (*a*) [4][or clause (*aa*) [5][or clause (*ab*)] of sub-section (*1*)] of section 12A.]

[6][(*3*) Where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) [7][or has obtained registration at any time under section 12A. [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)]] and subsequently the [3][Principal Commissioner or Commissioner] is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.]

[8][(*4*) Without prejudice to the provisions of sub-section (*3*), where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (*1*) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.]

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1. Ins. by Act 27 of 1999, s. 9 (w.e.f. 1-6-1999).
2. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013)
3. Subs. by s. 4, *ibid.*, for "Commissioner" (w.r.e.f. 1-6-2013)
4. Ins. by Act 22 of 2007, s. 9 (w.e.f. 1-6-2007).
5. Ins. by Act 7 of 2017, s. 10 (w.e.f. 1-4-2018).
6. Ins. by Act 23 of 2004, s. 6 (w.e.f. 1-10-2004).
7. Ins. by Act 14 of 2010, s. 7 (w.e.f. 1-6-2010).
8. Ins. by Act 25 of 2014, s. 9 (w.e.f. 1-10-2014).

[1][**13. Section 11 not to apply in certain cases**.—(*1*) [2][Nothing contained in section 11 or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(*a*) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

(*b*) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;

[3]* * * * *

(*c*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(*i*) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(*ii*) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (*3*):

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (*3*), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution:

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (*3*) insofar as such use or application relates to any period before the 1st day of June, 1970;

[4][(*d*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(*i*) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (*5*) of section 11; or

(*ii*) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (*5*) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier section 13 omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).
2. Subs. by Act 16 of 1972, s. 7, for "Nothing contained in section 11" (w.e.f. 1-4-1973).
3. Clause (*bb*) omitted by Act 11 of 1983, s. 7 (w.e.f. 1-4-1984).
4. Subs. by s. 7, *ibid*., for clause (*d*) (w.e.f. 1-4-1983).

[1][(*iii*) any shares in a company, other than—

(*A*) shares in a public sector company;

(*B*) shares prescribed as a form or mode of investment under clause (*xii*) of sub-section (*5*) of section 11,

are held by the trust or institution after the 30th day of November, 1983:]

Provided that nothing in this clause shall apply in relation to—

(*i*) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 [2]***;

[3][(*ia*) any accretion to the shares, forming part of the corpus mentioned in clause (*i*), by way of bonus shares allotted to the trust or institution;]

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

[4][(*iia*) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (*5*) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (*5*) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, [5][1993], whichever is later;]

(*iii*) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation.—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (*iii*) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.]

[6][*Explanation*.—For the purposes of sub-clause (*ii*) of clause (*c*), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (*3*), insofar as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (*ii*) of clause (*a*) thereof] of the Finance Act, 1972.]

(*2*) Without prejudice to the generality of the [7][provisions of clause (*c*) and clause (*d*)] of sub-section (*1*), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (*3*),—

(*a*) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (*3*) for any period during the previous year without either adequate security or adequate interest or both;

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1. Subs. by Act 22 of 2007, s. 10, for sub-clause (*iii*) (w.e.f. 1-4-1999).
2. The words "and such assets were not purchased by the trust or institution or acquired by it by conversion or in exchange for, any other asset" omitted by Act 18 of 1992, s. 5 (w.e.f. 1-4-1983).
3. Ins. by s. 5, *ibid*. (w.e.f. 1-4-1983).
4. Ins. by Act 49 of 1991, s. 8 (w.e.f. 1-4-1983).
5. Subs. by Act 18 of 1992, s. 5, for "1992" (w.e.f. 1-4-1992).
6. Ins. by Act 16 of 1972, s. 7 (w.e.f. 1-4-1973).
7. Subs. by Act 11 of 1983, s. 7, for "provisions of clause (*c*)" (w.e.f. 1-4-1983).

(*b*) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (*3*), for any period during the previous year without charging adequate rent or other compensation;

(*c*) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (*3*) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(*d*) if the services of the trust or institution are made available to any person referred to in sub-section (*3*) during the previous year without adequate remuneration or other compensation;

(*e*) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (*3*) during the previous year for consideration which is more than adequate;

(*f*) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (*3*) during the previous year for consideration which is less than adequate;

[1][(*g*) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (*3*):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;]

(*h*) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (*3*) has a substantial interest.

(*3*) The persons referred to in clause (*c*) of sub-section (*1*) and sub-section (*2*) are the following, namely:—

(*a*) the author of the trust or the founder of the institution;

[2][(*b*) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds [3][fifty thousand] rupees];

(*c*) where such author, founder or person is a Hindu undivided family, a member of the family;

[4][(*cc*) any trustee of the trust or manager (by whatever name called) of the institution;]

1. Subs. by Act 16 of 1972, s. 7, for clause (*g*) (w.e.f. 1-4-1973).
2. Subs. by Act 41 of 1975, s. 5, for clause (*b*) (w.e.f. 1-4-1977).
3. Subs. by Act 32 of 1994, s. 9, for "twenty-five thousand" (w.e.f. 1-4-1995).
4. Ins. by Act 16 of 1972, s. 7 (w.e.f. 1-4-1973).

(*d*) any relative of any such author, founder, person, [1][member, trustee or manager] as aforesaid;

(*e*) any concern in which any of the persons referred to in clauses (*a*), (*b*), [2][(*c*), (*cc*)] and (*d*) has a substantial interest.

(*4*) Notwithstanding anything contained in clause (*c*) of sub-section (*1*) [3][but without prejudice to the provisions contained in clause (*d*) of that sub-section, in a case where] the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (*3*) has a substantial interest, does not exceed five per cent. of the capital of that concern, the exemption under [4][section 11 or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the [5][funds of the trust or the institution] have been invested in a concern in which such person has a substantial interest.

[6][(*5*) Notwithstanding anything contained in clause (*d*) of sub-section (*1*), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.]

[7][(*6*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), but without prejudice to the provisions contained in sub-section (*2*) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (*2*) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (*3*).]

[8][(*7*) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.]

[9][(*8*) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (*15*) of section 2 become applicable in the case of such person in the said previous year.]

[10][(*9*) Nothing contained in sub-section (*2*) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(*i*) the statement referred to in clause (*a*) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (*1*) of section 139 for furnishing the return of income for the previous year; or

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1. Subs. by Act 16 of 1972, s. 7, for "or member" (w.e.f. 1-4-1973).
2. Subs. by s. 7, *ibid.*, for "(*c*)" (w.e.f. 1-4-1973).
3. Subs. by Act 11 of 1983, s. 7, for ", in a case where" (w.e.f. 1-4-1983).
4. Subs. by Act 16 of 1972, s. 7, for "section 11" (w.e.f. 1-4-1973).
5. Subs. by Act 32 of 1971, s. 6, for "money of the trust or the institution" (w.e.f. 1-4-1971).
6. Ins. by Act 49 of 1991, s. 8 (w.e.f. 1-4-1983).
7. Ins. by Act 10 of 2000, s. 10 (w.e.f. 1-4-2001).
8. Ins. by Act 21 of 2006, s. 6 (w.e.f. 1-4-2007).
9. Ins. by Act 23 of 2012, s. 6 (w.e.f. 1-4-2009).
10. Ins. by Act 20 of 2015, s. 9 (w.e.f. 1-4-2016).

(*ii*) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (*1*) of section 139 for furnishing the return of income for the said previous year.]

[1][*Explanation* 1.—For the purposes of sections 11, 12, 12A and this section, "trust" includes any other legal obligation and for the purposes of this section "relative", in relation to an individual, means—

(*i*) spouse of the individual;

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

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

(*iv*) any lineal ascendant or descendant of the individual;

(*v*) any lineal ascendant or descendant of the spouse of the individual;

(*vi*) spouse of a person referred to in sub-clause (*ii*), sub-clause (*iii*), sub-clause (*iv*) or sub-clause (*v*);

(*vii*) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

Explanation 2.—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (*b*) of sub-section (*1*).

Explanation 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (*3*);

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (*3*) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent. of the profits of such concern.]

[2][**13A. Special provision relating to incomes of political parties**.—Any income of a political party which is chargeable under the head [3]*** "Income from house property" or "Income from other sources" or [4][Capital gains or] any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party:

1. Subs. by Act 16 of 1972, s. 7, for *Explanation* 1 (w.e.f. 1-4-1973).
2. Ins. by Act 29 of 1978, s. 2 (w.e.f. 1-4-1979).
3. The words "Interest on securities" omitted by Act 26 of 1988, s. 7 (w.e.f. 1-4-1989).
4. Ins. by Act 32 of 2003, s. 12 (w.e.f. 1-4-1979).

Provided that—

(*a*) such political party keeps and maintains such books of account and other documents as would enable the [1][Assessing Officer] to properly deduce its income therefrom;

(*b*) in respect of each such voluntary contribution [2][other than contribution by way of electoral bond] in excess of [3][twenty thousand rupees], such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; [4]***

(*c*) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 [2][; and]

[2][(*d*) no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.

Explanation.—For the purposes of this proviso, "electoral bond" means a bond referred to in the *Explanation* to sub-section (*3*) of section 31 of the Reserve Bank of India Act, 1934 (2 of 1934):]

[5][Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (*3*) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year:]

[2][Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (*4B*) of section 139 on or before the due date under that section.]

[6][*Explanation*.—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).]

[7][**13B. Special provisions relating to voluntary contributions received by electoral trust**.—Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(*a*) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(*b*) such electoral trust functions in accordance with the rules made by the Central Government.]

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1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 7 of 2017, s. 11 (w.e.f. 1-4-2018).
3. Subs. by Act 46 of 2003, s. 8, for "ten thousand rupees" (w.e.f. 11-9-2003).
4. The word "and" omitted by Act 7 of 2017, s. 11 (w.e.f. 1-4-2018).
5. Ins. by Act 46 of 2003, s. 8 (w.e.f. 11-9-2003).
6. Subs. by s. 8, *ibid*., for the *Explanation* (w.e.f . 11-9-2003).
7. Ins. by Act 33 of 2009, s. 8 (w.e.f. 1-4-2010).

CHAPTER IV

COMPUTATION OF TOTAL INCOME

Heads of income

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

A.—Salaries.

[1]* * * * *

C.—Income from house property.

D.—Profits and gains of business or profession.

E.—Capital gains.

F.—Income from other sources.

[2][**14A. Expenditure incurred in relation to income not includible in total income.**—[3][(*1*)] For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.]

[4][(*2*) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

(*3*) The provisions of sub-section (*2*) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under this Act:]

[5][Provided that nothing contained in this section shall empower the Assessing Officer either to reassess undersection 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee undersection 154, for any assessment year beginning on or before the 1st day of April, 2001.]

A.—Salaries

15. Salaries.—The following income shall be chargeable to income-tax under the head "Salaries"—

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

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

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1. The letter or words "*B. —Interest on securities*" omitted by Act 26 of 1988, s. 8 (w.e.f. 1-4-1989).
2. Ins. by Act 14 of 2001, s. 11 (w.e.f. 1-4-1962).
3. Section 14A renumbered as sub-section (*1*) thereof by Act 21 of 2006, s. 7 (w.e.f. 1-4-2007).
4. Ins. by s. 7, *ibid*. (w.e.f. 1-4-2007).
5. Ins. by Act 20 of 2002, s. 10 (w.e.f. 11-5-2001).

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

Explanation [1][1.]—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

[2][*Explanation* 2.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "salary" for the purposes of this section.]

16. Deductions from salaries.—The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely:—

[3][[4]* * * * *

[5][(*ia*) a deduction of [6][fifty thousand] rupees or the amount of the salary, whichever is less;]

(*ii*) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;]

[7][(*iii*) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276 of the Constitution, leviable by or under any law.]

[8]* * * * *

17. "Salary", "perquisite" and "profits in lieu of salary" defined.—For the purposes of sections 15 and 16 and of this section,—

(*1*) "salary" includes—

(*i*) wages;

(*ii*) any annuity or pension;

(*iii*) any gratuity;

(*iv*) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(*v*) any advance of salary;

[9][(*va*) any payment received by an employee in respect of any period of leave not availed of by him;]

(*vi*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule;

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

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1. *Explanation* renumbered as *Explanation* 1 thereof by Act 18 of 1992, s. 6 (w.e.f. 1-4-1993).
2. Ins. by s. 6, *ibid*. (w.e.f. 1-4-1993). Earlier inserted by Act 4 of 1988, s. 8 (w.e.f. 1-4-1989) and later omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).
3. Subs. by Act 14 of 2001, s. 12, for clause (*i*) and (*ii*) (w.e.f. 1-4-2002).
4. Clause (*i*) omitted by Act 18 of 2005, s. 6 (w.e.f. 1-4-2006).
5. Ins. by Act 13 of 2018, s. 7 (w.e.f. 1-4-2019).
6. Subs. by Act 7 of 2019, s. 3, for "forty thousand" (w.e.f. 1-4-2020).
7. Ins. by Act 13 of 1989, s. 5 (w.e.f. 1-4-1990). Earlier clause (*iii*) omitted by Act 20 of 1974, s. 4 (w.e.f. 1-4-1975).
8. Clause (*iv*) and (*v*) omitted by Act 20 of 1974, s. 4 (w.e.f. 1-4-1975).
9. Ins. by Act 67 of 1984, s. 7 (w.e.f. 1-4-1978).

[1][(*viii*) the contribution made by the [2][Central Government or any other employer] in the previous year, to the account of an employee under a pension scheme referred to insection 80CCD;]

(*2*) "perquisite" includes—

(*i*) the value of rent-free accommodation provided to the assessee by his employer;

(*ii*) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

[3][*Explanation* 1.—For the purposes of this sub-clause, concession in the matter of rent shall be deemed to have been provided if,—

[4][(*a*) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(*i*) the accommodation is owned by the employer, the value of the accommodation determined at the specified rate in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*ii*) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or fifteen per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;]

(*b*) in a case where a furnished accommodation is provided by the Central Government or any State Government, the licence fee determined by the Central Government or any State Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the aggregate of the rent re-coverable from, or payable by, the assessee and any charges paid or payable for the furniture and fixtures by the assessee;

(*c*) in a case where a furnished accommodation is provided by an employer other than the Central Government or any State Government and—

(*i*) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (*i*) of clause (*a*) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*ii*) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (*ii*) of clause (*a*) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(*d*) in a case where the accommodation is provided by the employer in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregatefifteen days on his transfer from one place to another), the value of the

1. Ins. by Act 23 of 2004, s. 7 (w.e.f. 1-4-2004).
2. Subs. by Act 22 of 2007, s. 11, for "Central Government" (w.r.e.f. 1-4-2004).
3. Ins. by s. 11, *ibid*. (w.r.e.f. 1-4-2002).
4. Subs. by s. 11, *ibid*., for clause (*a*) (w.r.e.f. 1-4-2006).

accommodation determined at the rate of twenty-four per cent. of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided, exceeds the rent recoverable from, or payable by, the assessee.

Explanation 2.—For the purposes of this sub-clause, value of furniture and fixture shall be ten per cent. per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.

Explanation 3.—For the purposes of this sub-clause, "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called, from one or more employers, as the case may be, but does not include the following, namely:—

(*a*) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(*b*) employer's contribution to the provident fund account of the employee;

(*c*) allowances which are exempted from the payment of tax;

(*d*) value of the perquisites specified in this clause;

(*e*) any payment or expenditure specifically excluded under the proviso to this clause.]

[1][*Explanation* 4.—For the purposes of this sub-clause, "specified rate" shall be—

(*i*) fifteen per cent. of salary in cities having population exceeding twenty-five lakhs as per 2001 census;

(*ii*) ten per cent. of salary in cities having population exceeding ten lakhs but not exceeding twenty-five lakhs as per 2001 census; and

(*iii*) seven and one-half per cent. of salary in any other place;]

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

(*a*) by a company to an employee who is a director thereof;

(*b*) by a company to an employee being a person who has a substantial interest in the company;

(*c*) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub-clause do not apply and whose income [2][under the head "Salaries" (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds [3][fifty thousand rupees:]]

[4]* * * * *

1. Ins. by Act 22 of 2007, s. 11 (w.e.f. 1-4-2006).
2. Subs. by Act 32 of 1985, s. 6, for certain words (w.e.f. 1-4-1986).
3. Subs. by Act 14 of 2001, s. 13, for "twenty-four thousands rupees" (w.e.f. 1-4-2002).
4. The proviso omitted by Act 22 of 2007, s. 11 (w.e.f. 1-4-2008). Earlier the proviso inserted by Act 10 of 2000, s. 11 (w.e.f. 1-4-2001).

[1][*Explanation*.—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause;]

[2]* * * * *

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

(*v*) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund [3][or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)], to effect an assurance on the life of the assessee or to effect a contract for an [4][annuity;]

[5][(*vi*) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

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

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

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

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

(*d*) "fair market value" means the value determined in accordance with the method as may be prescribed;

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

(*vii*) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds [6][one lakh rupees]; and

(*viii*) the value of any other fringe benefit or amenity as may be prescribed:]

1. Ins. by Act 13 of 1989, s. 6 (w.e.f. 1-4-1990).
2. Sub-clause (*iiia*) omitted by Act 10 of 2000, s. 11 (w.e.f 1-4-2001).
3. Ins. by Act 99 of 1976, s. 40 (w.e.f. 1-8-1976).
4. Subs. by Act 33 of 2009, s. 9, for "annuity; and" (w.e.f. 1-4-2010).
5. Subs. by s. 9, *ibid*., for sub-clause (*vi*) (w.e.f. 1-4-2010).
6. Subs. by Act 28 of 2016, s. 9, for "one lakh and fifty thousand rupees" (w.e.f. 1-4-2017).

[1][Provided that nothing in this clause shall apply to,—

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

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

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

(*b*) in respect of the prescribed diseases or ailments, in any hospital approved by the [3][Principal Chief Commissioner or Chief Commissioner] having regard to the prescribed guidelines:

Provided that, in a case falling in sub-clause (b), the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital;]

(*iii*) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government [4][or the Insurance Regulatory and Development Authority established under sub-section (*1*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of clause (*ib*) of sub-section (*1*) of section 36;

(*iv*) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government [4][or the Insurance Regulatory and Development Authority established under sub-section (*1*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of section 80D;

[5]* * * * *

(*vi*) any expenditure incurred by the employer on—

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

(*2*) [6][travel and stay] abroad of the employee or any member of the family of such employee for medical treatment;

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

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1. Ins. by Act 49 of 1991, s. 9 (w.e.f. 1-4-1991).
2. Subs. by Act 32 of 1994, s. 10, for sub-clause (*ii*) (w.r.e.f. 1-4-1993). Earlier substituted by Act 18 of 1992, s. 8 (w.e.f. 1-4-1993).
3. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).
4. Ins. by Act 21 of 2006, s. 8 (w.e.f. 1-4-2007).
5. Clause (*v*) omitted by Act 13 of 2018, s. 8 (w.e.f. 1-4-2019).
6. Subs. by Act 38 of 1993, s. 8, for "travel or stay" (w.e.f. 1-4-1993).

[1][subject to the condition that—

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

(*B*) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees;]

(*vii*) any sum paid by the employer in respect of any expenditure actually incurred by the employee for any of the purposes specified in clause (*vi*) subject to the conditions specified in or under that clause:

[2][Provided further that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head "Salaries" (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.]

Explanation.—For the purposes of clause (*2*),—

(*i*) "hospital" includes a dispensary or a clinic [3][or a nursing home];

(*ii*) "family", in relation to an individual, shall have the same meaning as in clause (*5*) of section 10; and

(*iii*) "gross total income" shall have the same meaning as in clause (*5*) of section 80B;]

[4]* * * * *

(*3*) "profits in lieu of salary" includes—

(*i*) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(*ii*) any payment [other than any payment referred to in clause (*10*) [5][, clause (*10A*)] [6][, clause (*10B*)], clause (*11*), [7][clause (*12*) [8][, clause (*13*)] or clause (*13A*)] of section 10], due to or received by an assessee from an employer or a former employer or from a provident or other fund [9]***, to the extent to which it does not consist of contributions by the assessee or [10][interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (*10D*) of section 10;]

[11][(*iii*) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

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

(*B*) after cessation of his employment with that person.]

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1. Subs. by Act 38 of 1993, s. 8, for certain words (w.e.f. 1-4-1993)
2. Ins. by Act 20 of 2002, s. 11 (w.e.f,. 1-4-2002).
3. Ins. by Act 18 of 1992, s. 8 (w.e.f. 1-4-1993).
4. Sub-clause (*vi*) omitted by Act 32 of 1985, s. 7 (w.e.f. 1-4-1985).
5. Ins. by Act 15 of 1965, s. 4 (w.e.f. 1-4-1962).
6. Ins. by Act 25 of 1975, s. 24 (w.e.f. 1-4-1976).
7. Subs. by Act 31 of 1964, s. 4, for "or clause (*12*)" (w.e.f. 6-10-1964).
8. Ins. by Act 22 of 1995, s. 6 (w.e.f. 1-4-1996).
9. The brackets and words "(not being an approved superannuation fund)" omitted by s. 6, *ibid*. (w.e.f. 1-4-1996).
10. Subs. by Act 33 of 1996, s. 8, for "interest on such contributions." (w.e.f. 1-10-1996).
11. Ins. by Act 14 of 2001, s. 13 (w.e.f. 1-4-2002).

[1]* * * * *

18. [*Interest on securities*.]—*Omitted by the Finance Act***,** 1988 (26 *of* 1988), *s.* 10 (*w.e.f.* 1-4-1989).

19. [*Deductions from interest on securities.*]—*Omitted by s.* 10, *ibid.* (*w.e.f.* 1-4-1989).

20. [*Deductions from interest on securities in the case of a banking company*.]—*Omitted by s.* 10, *ibid.* (*w.e.f.* 1-4-1989).

21. [*Amounts not deductible from interest on securities.*]—*Omitted by s.* 10, *ibid.* (*w.e.f.* 1-4-1989).

C.—Income from house property

22. Income from house property.—The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".

[2]**[23. Annual value how determined**.—(*1*) For the purposes of section 22, the annual value of any property shall be deemed to be—

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

(*b*) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (*a*), the amount so received or receivable; or

(*c*) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (*a*), the amount so received or receivable:

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (*b*) or clause (*c*) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

(*2*) Where the property consists of a house or part of a house which—

(*a*) is in the occupation of the owner for the purposes of his own residence; or

(*b*) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

the annual value of such house or part of the house shall be taken to be *nil*.

(*3*) The provisions of sub-section (*2*) shall not apply if—

(*a*) the house or part of the house is actually let during the whole or any part of the previous year; or

(*b*) any other benefit therefrom is derived by the owner.

(*4*) Where the property referred to in sub-section (*2*) consists of more than [3][two houses]—

(*a*) the provisions of that sub-section shall apply only in respect of [4][two] of such houses, which the assessee may, at his option, specify in this behalf;

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1. The heading "*B.—Interest on securities*" omitted by Act 26 of 1988, s. 10 (w.e.f. 1-4-1989).
2. Subs. by Act 14 of 2001, s. 14, for section 23 (w.e.f. 1-4-2002).
3. Subs. by Act 7 of 2019, s. 4, for "one house" (w.e.f. 1-4-2020).
4. Subs. by s. 4, *ibid*., for "one" (w.e.f. 1-4-2020).

(*b*) the annual value of the house or houses, [1][other than the house or houses] in respect of which the assessee has exercised an option under clause (*a*), shall be determined under sub-section (*1*) as if such house or houses had been let.]

[2][(*5*) Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to [3][two years] from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be *nil*.]

[4][**24. Deductions from income from house property.**—Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(*a*) a sum equal to thirty per cent. of the annual value;

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

Provided that in respect of property referred to in sub-section (*2*) of section 23, the amount of deduction [5][or, as the case may be, the aggregate of the amount of deduction] shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed [6][within [7][five years] from the end of the financial year in which capital was borrowed], the amount of deduction [5][or, as the case may be, the aggregate of the amounts of deduction] under this clause shall not exceed [8][two lakh rupees].

Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years:]

[9][Provided also that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

Explanation.—For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the assessee subsequent to the capital borrowed, for the purpose of repayment of such capital.]

[5][Provided also that the aggregate of the amounts of deduction under the first and second provisos shall not exceed two lakh rupees.]

25. Amounts not deductible from income from house property.— Notwithstanding anything contained in section 24, any [10]*** interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Income from house property".

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1. Subs. by Act 7 of 2019, s. 4, for "other than the house" (w.e.f. 1-4-2020).
2. Ins. by Act 7 of 2017, s. 12 (w.e.f. 1-4-2018)
3. Subs. by Act 7 of 2019, s. 5, for "one year" (w.e.f. 1-4-2020).
4. Subs. by Act 14 of 2001, s. 15, for section 24 (w.e.f. 1-4-2002).
5. Ins. by Act 7 of 2019, s. 5 (w.e.f. 1-4-2020).
6. Subs. by Act 20 of 2002, s. 12, for "before the 1st day of April, 2003" (w.e.f. 1-4-2003).
7. Subs. by Act 28 of 2016, s. 10, for "three years" (w.e.f. 1-4-2017).
8. Subs. by Act 25 of 2014, s. 10, for "one lakh fifty thousand rupees" (w.e.f. 1-4-2015).
9. Ins. by Act 20 of 2002, s. 12 (w.e.f. 1-4-2003).
10. The words "annual charge or" omitted by Act 14 of 2001, s. 16 (w.e.f. 1-4-2002).

[1][**25A. Special provision for arrears of rent and unrealised rent received subsequently.**—(*1*) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that financial year.

(*2*) A sum equal to thirty per cent. of the arrears of rent or the unrealised rent referred to in sub-section (*1*) shall be allowed as deduction.]

26. Property owned by co-owners.—Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.

[2][*Explanation*.—For the purposes of this section, in applying the provisions of sub-section (*2*) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.

27. "Owner of house property", "annual charge", etc., defined.—For the purposes of sections 22 to 26—

(*i*) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

(*ii*) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate ;

[3][(*iii*) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof;

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

(*iiib*) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (*f*) of section 269 UA, shall be deemed to be the owner of that building or part thereof;]

[4]* * * * *

(*vi*) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

28. Profits and gains of business or profession.—The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

(*i*) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year;

(*ii*) any compensation or other payment due to or received by,—

(*a*) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

1. Subs. by Act 28 of 2016, s. 11 for sections 25A, 25AA and 25B (w.e.f. 1-4-2017).
2. Ins. by Act 41 of 1975, s. 7 (w.e.f. 1-4-1976).
3. Subs. by Act 11 of 1987, s. 6, for clause (*iii*) (w.e.f. 1-4-1988).
4. Clauses (iv) and (*v*) omitted by Act 14 of 2001, s. 20 (w.e.f. 1-4-2002).

(*b*) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;

(*c*) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto ;

[1][(*d*) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;]

[2][(*e*) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;]

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

[3][(*iiia*) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947);]

[4][(*iiib*) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;]

[5][(*iiic*) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;]

[6][(*iiid*) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);]

[7][(*iiie*) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);]

[8][(*iv*) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;]

[9][(*v*) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm:

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (*b*) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted;]

[10][(*va*) any sum, whether received or receivable, in cash or kind, under an agreement for—

(*a*) not carrying out any activity in relation to any business [11][or profession]; or

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1. Ins. by Act 21 of 1973, s. 4 (w.e.f. 1-4-1972).
2. Ins. by Act 13 of 2018, s. 9 (w.e.f. 1-4-2019).
3. Ins. by Act 12 of 1990, s. 6 (w.e.f. 1-4-1962).
4. Ins. by s. 6, *ibid*. (w.e.f. 1-4-1967).
5. Ins. by s. 6, *ibid.*(w.e.f. 1-4-1972).
6. Ins. by Act 55 of 2005, s. 3 (w.e.f. 1-4-1998).
7. Ins. by s. 3, *ibid*. (w.e.f. 1-4-2001).
8. Ins. by Act 5 of 1964, s. 7 (w.e.f. 1-4-1964).
9. Ins. by Act 18 of 1992, s. 11 (w.e.f. 1-4-1993). Earlier clause (*v*) was inserted by Act 4 of 1988, s. 9 (w.e.f. 1-4-1989) and later omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).
10. Ins. by Act 20 of 2002, s. 13 (w.e.f. 1-4-2003).
11. Ins. by Act 28 of 2016, s. 12 (w.e.f. 1-4-2017)

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

Provided that sub-clause (*a*) shall not apply to—

(*i*) any sum, whether received or receivable, in cash or kind, on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business [1][or profession], which is chargeable under the head "Capital gains";

(*ii*) any sum received as compensation, from the multi-lateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.

Explanation.—For the purposes of this clause,—

(*i*) "agreement" includes any arrangement or understanding or action in concert,—

(*A*) whether or not such arrangement, understanding or action is formal or in writing; or

(*B*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(*ii*) "service" means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as accounting, banking, communication, conveying of news or information, advertising, entertainment, amusement, education, financing, insurance, chit funds, real estate, construction, transport, storage, processing, supply of electrical or other energy, boarding and lodging;]

[2][(*vi*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

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

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (*10D*) of section 10;]

[4][(*vii*) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.]

[5]* * * * *

Explanation 2.—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

1. Ins. by Act 28 of 2016, s. 12 (w.e.f. 1-4-2017).
2. Ins. by Act 33 of 1996, s. 10 (w.e.f. 1-10-1996).
3. Ins. by Act 13 of 2018, s. 9 (w.e.f. 1-4-2019).
4. Ins. by Act 33 of 2009, s. 10 (w.e.f. 1-4-2010).
5. *Explanation* 1 omitted by 4 of 1988, s. 9 (w.e.f. 1-4-1989).

29. Income from profits and gains of business or profession, how computed.—The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to [1][43D].

30. Rent, rates, taxes, repairs and insurance for buildings.—In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

(*a*) where the premises are occupied by the assessee—

(*i*) as a tenant, the rent paid for such premises; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs;

(*ii*) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises;

(*b*) any sums paid on account of land revenue, local rates or municipal taxes;

(*c*) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

[2][*Explanation*.—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (*i*), and the amount paid on account of current repairs referred to in sub-clause (*ii*), of clause (*a*), shall not include any expenditure in the nature of capital expenditure.]

31. Repairs and insurance of machinery, plant and furniture.—In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(*i*) the amount paid on account of current repairs thereto;

(*ii*) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

[3][*Explanation*.—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.]

32. Depreciation.—(*1*) [4][In respect of depreciation of—

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

(*ii*) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—

[5][(*i*) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;]

1. Subs. by Act 49 of 1991, s. 10, for "43C" (w.e.f. 1-4-1992).
2. Ins. by Act 32 of 2003, s. 14 (w.e.f. 1-4-2004).
3. Ins. by s. 15, *ibid*. (w.e.f. 1-4-2004).
4. Subs. by Act 21 of 1998, s. 9, for certain words and figures (w.e.f. 1-4-1999).
5. Ins. by Act 7 of 1998, s. 2 (w.e.f. 1-4-1998).

(*ii*) [1][in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:]

[2]* * * * *

[3][Provided [4]*** that no deduction shall be allowed under this clause in respect of—

(*a*) any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975 [5][but before the 1st day of April, 2001], unless it is used—

(*i*) in a business of running it on hire for tourists; or

(*ii*) outside India in his business or profession in another country; and

(*b*) any machinery or plant if the actual cost thereof is allowed as a deduction in one or more years under an agreement entered into by the Central Government undersection 42:]

[6][Provided further that where an asset referred to in clause (*i*) [7][or clause (*ii*) or clause (*iia*)] [8][or the first proviso to clause (*iia*)], as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (*i*) [7][or clause (*ii*) or clause (*iia*)], as the case may be:]

[8][Provided also that where an asset referred to in clause (*iia*) or the first proviso to clause (*iia*), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (*iia*) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (*iia*) shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset:]

[9][Provided also that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.

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1. Subs. by Act 46 of 1986, s. 5, for the opening paragraph (w.e.f. 1-4-1988).
2. The first proviso omitted by Act 22 of 1995, s. 7 (w.e.f. 1-4-1996).
3. Subs. by Act 49 of 1991, s. 11, for the second proviso (w.e.f. 1-4-1992).
4. The word "further" omitted by Act 22 of 1995, s. 7 (w.e.f. 1-4-1996).
5. Ins. by Act 14 of 2001, s. 21 (w.e.f. 1-4-2002).
6. Subs. by Act 7 of 1998, s. 2, for the second proviso (w.e.f. 1-4-1998).
7. Subs. by Act 20 of 2002, s. 14, for "or clause (*ii*)" (w.e.f. 1-4-2003).
8. Ins. by Act 20 of 2015, s. 10 (w.e.f. 1-4-2016).
9. Ins. by Act 11 of 1999, s. 5 (w.e.f. 1-4-1999).

Explanation.—For the purposes of this proviso,—

(*a*) the expression "commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller";

(*b*) the expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988):]

[1][Provided also that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under this clause shall, in the case of a company, be restricted to seventy-five per cent. of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991 (2 of 1991):]

[2][Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in [3][clause (*xiii*), clause (*xiiib*) and clause (*xiv*)] of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.]

[4][*Explanation* 1.—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

Explanation 2.—[5][For the purposes of this sub-section] "written down value of the block of assets" shall have the same meaning as in clause (*c*) of sub-section (*6*) of section 43.]

[6][*Explanation* 3.—For the purposes of this sub-section, [7][the expression "assets"] shall mean—

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

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1. Ins. by Act 2 of 1991, s. 4 (w.e.f. 15-1-1991). Later Act 2 of 1991 repealed by Act 23 of 2016, s. 2 and the First Schedule (except s. 6) (w.e.f. 6-5-2016).
2. Subs. by Act 27 of 1999, s. 12, for the fourth proviso (w.e.f. 1-4-2000).
3. Subs. by Act 14 of 2010, s. 8, for "clause (*xiii*) and clause (*xiv*)" (w.e.f. 1-4-2011).
4. Ins. by Act 46 of 1986, s. 5 (w.e.f. 1-4-1988).
5. Subs. by Act 20 of 2002, s. 14, for "For the purposes of this clause" (w.e.f. 1-4-2003).
6. Ins. by Act 21 of 1998, s. 9 (w.e.f. 1-4-1999).
7. Subs. by Act 33 of 2009, s. 11, for 'the expressions "assets" and "block of assets" (w.e.f. 1-4-2010).

(*b*) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

Explanation 4.—For the purposes of this sub-section, the expression "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto).]

[1][*Explanation* 5.—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;]

[2][(*iia*) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing [3][[4][or in the business of generation, transmission or distribution] of power], a further sum equal to twenty per cent. of the actual cost of such machinery or plant shall be allowed as deduction under clause (*ii*):

[5][Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (*iia*) shall have effect, as if for the words "twenty per cent.", the words "thirty-five per cent." had been substituted:]

[6][Provided further] that no deduction shall be allowed in respect of—

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

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

(*C*) any office appliances or road transport vehicles; or

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

[7][(*iii*) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (*i*) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which

1. Ins. by Act 14 of 2001, s. 21 (w.e.f. 1-4-2002).
2. Subs. by Act 18 of 2005, s. 8, for clause (*iia*) (w.e.f. 1-4-2006).
3. Ins. by Act 23 of 2012, s. 7 (w.e.f. 1-4-2013).
4. Subs. by Act 28 of 2016, s. 13, for "or in the business of generation or generation and distribution" (w.e.f. 1-4-2017).
5. Ins. by Act 20 of 2015, s. 10 (w.e.f. 1-4-2016).
6. Subs. by s. 10, *ibid*., for "Provided" (w.e.f. 1-4-2016).
7. Ins. by Act 21 of 1998, s. 9 (w.e.f. 1-4-1998).

the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(*1*) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(*a*) any insurance, salvage or compensation moneys payable in respect thereof;

(*b*) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (*1*) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(*2*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is [1][an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (*15*) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (*7*) of section 45 of that Act of any asset by the banking company to the banking institution].]

[2]* * * * *

[3]* * * * *

[4][(*2*) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (*1*) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (*2*) of section 72 and sub-section (*3*) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.]

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1. Subs. by Act 18 of 2005, s. 8, for "an Indian Company" (w.e.f. 1-4-2005).

2. Clauses (*iv*), (*v*) and (*vi*) omitted by Act 46 of 1986, s. 5 (w.e.f. 1-4-1988).

3. Subs-section (*1A*) omitted by s. 5, *ibid*. (w.e.f. 1-4-1988).

4. Subs. by Act 14 of 2001, s. 21, for sub-section (*2*) (w.e.f. 1-4-2002).

[1][**32A. Investment allowance**.—(*1*) In respect of a ship or an aircraft or machinery or plant specified in sub-section (*2*), which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, in respect of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, of a sum by way of investment allowance equal to twenty-five per cent.. of the actual cost of the ship, aircraft, machinery or plant to the assessee:

[2][Provided that in respect of a ship or an aircraft or machinery or plant specified in sub-section (*8B*), this sub-section shall have effect as if for the words "twenty-five per cent.", the words "twenty per cent." had been substituted:

Provided further that] no deduction shall be allowed under this section in respect of—

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

(*b*) anyoffice appliances or road transport vehicles;

(*c*) any ship, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33; and

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

[2][*Explanation*.—For the purposes of this sub-section, "actual cost" means the actual cost of the ship, aircraft, machinery or plant to the assessee as reduced by that part of such cost which has been met out of the amount released to the assessee under sub-section (*6*) of section 32AB.]

(*2*) The ship or aircraft or machinery or plant referred to in sub-section (*1*) shall be the following, namely:—

(*a*) a new ship or new aircraft acquired after the 31st day of March, 1976, by an assessee engaged in the business of operation of ships or aircraft ;

(*b*) any new machinery or plant installed after the 31st day of March, 1976,—

(*i*) for the purposes of business of generation or distribution of electricity or any other form of power; or

[3][(*ii*) in a small-scale industrial undertaking for the purposes of business of manufacture or production of any article or thing ; or

(*iii*) in any other industrial undertaking for the purposes of business of construction, manufacture or productionof any article or thing, not being an article or thing specified in the list in the Eleventh Schedule:]

[2][Provided that nothing contained in clauses (*a*) and (*b*) shall apply in relation to,—

(*i*) a new ship or new aircraft acquired, or

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1. Ins. by Act 66 of 1976, s. 8 (w.e.f. 1-4-1976).
2. Ins. by Act 3 of 1989, s. 6 (w.e.f. 1-4-1989).
3. Subs. by Act 29 of 1977, s. 9, for sub-clauses (*ii*) and (*iii*) (w.e.f. 1-4-1978).

(*ii*) any new machinery or plant installed,

after the 31st day of March, 1987 but before the 1st day of April, 1988, unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (*a*) of sub-section (*8B*) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause;]

[1][(*c*) any new machinery or plant installed after the 31st day of March, 1983, but before the [2][1st day of April, 1987,] for the purposes of business of repairs to ocean-going vessels or other powered craft if the business is carried on by an Indian company and the business so carried on is for the time being approved for the purposes of this clause by the Central Government.]

Explanation.—For the purposes of [3][this sub-section and sub-sections (*2B*), (*2C*) and (*4*)],—

[4][(*1*) (*a*) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

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

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

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

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

(*2*) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of [5][the business of the undertaking does not exceed,—

[6][(*i*) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees;

(*ii*) in a case where the previous year ends after the 31st day of July, 1980, but before the 18th day of March, 1985, twenty lakh rupees; and

(*iii*) in a case where the previous year ends after the 17th day of March, 1985, thirty-five lakh rupees,]]

and for this purpose the value of any machinery or plant shall be,—

(*a*) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and

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1. Ins. by Act 11 of 1983, s. 11 (w.e.f. 1-4-1984).
2. Subs. by Act 23 of 1986, s. 7, for "1st day of April, 1988," (w.e.f. 1-4-1987).
3. Subs. by Act 11 of 1983, s. 11, for "this sub-section and sub-sections (*2B*) and (*4*)" (w.e.f. 1-6-1983).
4. Subs. by Act 46 of 1986, s. 32, for clause (*1*) (w.e.f. 1-4-1988).
5. Subs. by Act 16 of 1981, s. 5, for certain words (w.e.f. 1-4-1981).
6. Subs.by Act 23 of 1986, s. 7, for sub-clause (*i*) (w.e.f. 1-4-1985).

(*b*) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.

[1][(*2A*) The deduction under sub-section (*1*) shall not be denied in respect of any machinery or plant installed and used mainly for the purposes of business of construction, manufacture or production of any article or thing, not being an article or thing specified in the list in the Eleventh Schedule, by reason only that such machinery or plant is also used for the purposes of business of construction, manufacture or production of any article or thing specified in the said list.

(*2B*) Where any new machinery or plant is installed after the 30th day of June, 1977, [2][but before the 1st day of April, 1987], for the purposes of business of manufacture or production of any article or thing and such article or thing—

(*a*) is manufactured or produced by using any technology (including any process) or other know how developed in, or

(*b*) is an article or thing invented in,

a laboratory owned or financed by the Government, or a laboratory owned by a public sector company or a University or by an institution recognised in this behalf by the prescribed authority,the provisions of sub-section (*1*) shall have effect in relation to such machinery or plant as if for the words "twenty-five per cent..", the words "thirty-five per cent.." had been substituted, if the following conditions are fulfilled, namely:—

(*i*) the right to use such technology (including any process) or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner ;

(*ii*) the assessee furnishes, along with his return of income for the assessment year for which the deduction is claimed, a certificate from the prescribed authority to the effect that such article or thing is manufactured or produced by using such technology (including any process) or other knowhow developed in such laboratory or is an article or thing invented in such laboratory; and

(*iii*) the machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

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

(*a*) "laboratory financed by the Government" means a laboratory owned by any body including a society registered under the Societies Registration Act, 1860 (21 of 1860) and financed wholly or mainly by the Government;

[3]* * * * *

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

[4][(*2C*) Where any new machinery or plant, being machinery or plant which would assist in control of pollution or protection of environment and which has been notified in this behalf by the Central Government in the Official Gazette, is installed after the 31st day of May, 1983 but

1. Ins. by Act 29 of 1977, s. 9 (w.e.f. 1-4-1978).
2. Subs. by Act 14 of 1982, s. 8, for "but before the 1st day of April, 1982" (w.e.f. 1-4-1982).
3. Clause (*b*) omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1987).
4. Ins. by Act 11 of 1983, s. 11 (w.e.f. 1-6-1983).

before the 1st day of April, 1987, in any industrial undertaking referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) of clause (*b*) of sub-section (*2*), the provisions of sub-section (*1*) shall have effect in relation to such machinery or plant as if for the words "twenty-five per cent.", the words "thirty-five per cent.." had been substituted.]

(*3*) Where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, or, as the case may be, the immediately succeeding previous year (the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (*1*) of this section or any deduction under Chapter VI-A) is nil or is less than the full amount of the investment allowance,—

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

(*ii*) the amount of the investment allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the investment allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the investment allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, as the case may be, the immediately succeeding previous year.

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

(*a*) the allowance under clause (*ii*) shall be made before any allowance under clause (*i*) is made; and

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

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

(*i*) the particulars prescribed in this behalf have been furnished by the assessee in respect of the ship or aircraft or machinery or plant;

(*ii*) an amount equal to seventy-five per cent. of the investment allowance to be actually allowed is debited to the profit and loss account of [1][any previous year in respect of which the deduction is to be allowed under sub-section (*3*) or any earlier previous year (being a previous year not earlier than the year in which the ship or aircraft was acquired or the

1. Subs. by Act 12 of 1990, s. 7, for "the previous year in respect of which the deduction is to be allowed" (w.e.f. 1-4-1976).

machinery or plant was installed or the ship, aircraft, machinery or plant was first put to use)] and credited to a reserve account (to be called the "Investment Allowance Reserve Account") to be utilised—

(*a*) for the purposes of acquiring, before the expiry of a period of ten years next following the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (*a*), (*b*) and (*d*) of [1][the second proviso] to sub-section (*1*)] for the purposes of the business of the undertaking; and

(*b*) until the acquisition of a new ship or a new aircraft or new machinery or plant as aforesaid, for the purposes of the business of the undertaking 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:

Provided that this clause shall have effect in respect of a ship as if for the word "seventy-five", the word "fifty" had been substituted.

Explanation.—Where the amount debited to the profit and loss account and credited to the Investment Allowance Reserve Account under this sub-section is not less than the amount required to be so credited on the basis of the amount of deduction in respect of investment allowance claimed in the return made by the assessee under section 139, but a higher deduction in respect of the investment allowance is admissible on the basis of the total income as proposed to be computed by the [2][Assessing Officer] under section 143, the [2][Assessing Officer] shall, by notice in writing in this behalf, allow the assessee an opportunity to credit within the time specified in the notice or within such further time as the [2][Assessing Officer] may allow, a further amount to the Investment Allowance Reserve Account out of the profits and gains of the previous year in which such notice is served on the assessee or of the immediately preceding previous year, if the accounts for that year have not been made up; and, if the assessee credits any further amount to such account within the time aforesaid, the amount so credited shall be deemed to have been credited to the Investment Allowance Reserve Account of the previous year in which the deduction is admissible and such amount shall not be taken into account in determining the adequacy of the reserve required to be created by the assessee in respect of the previous year in which such further credit is made:

Provided that such opportunity shall not be allowed by the [2][Assessing Officer] in a case where the difference in the total income as proposed to be computed by him and the total income as returned by the assessee arises out of the application of the proviso to sub-section (*1*) of section 145 or sub-section (*2*) of that section or the omission by the assessee to disclose his income fully and truly.

(*5*) Any allowance made under this section in respect of any ship, aircraft, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act—

(*a*) if the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed; or

(*b*) if at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (*4*) for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than

1. Subs. by Act 3 of 1989, s. 6, for "the proviso" (w.e.f. 1-4-1989).
2. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[4]* * * * *

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

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

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

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

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

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

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

whichever is less:

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

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

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

[6]* * * * *

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

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

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

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

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

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

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

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

(*i*) the amount of depreciation;

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

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

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

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

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

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

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

[5]* * * * *

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

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

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

(*c*) any road transport vehicles;

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

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

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

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

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

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

(*a*) closure of business;

(*b*) death of an assessee;

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

(*d*) dissolution of a firm;

(*e*) liquidation of a company.

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

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

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

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

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

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

Provided that nothing in this sub-section shall apply—

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

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

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

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

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

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

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

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

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

Explanation.—In this section,—

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

(*b*) "Development Bank" means—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*iv*) any vehicle; or

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

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

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

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

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

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

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

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

(*d*) any vehicle; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*iv*) in any other case,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that this sub-section shall not apply—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[1][Provided that where such cost exceeds—

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

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

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

then, the excess shall be ignored.

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

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

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

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

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

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

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

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

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

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

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

whichever is less:

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

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

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

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

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

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

(*a*) closure of business;

(*b*) death of an assessee;

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

(*d*) dissolution of a firm;

(*e*) liquidation of a company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that nothing in this sub-section shall apply—

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

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

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

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

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

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

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

Explanation.—In this section,—

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

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

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

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

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

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

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

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

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

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

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

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

whichever is less:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[1]* * * * *

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

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

Provided that nothing in this sub-section shall apply—

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall be deemed to be the profits,—

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

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

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

and shall be charged to tax accordingly.

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

(*ii*) riot or civil disturbance; or

(*iii*) accidental fire or explosion; or

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

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

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

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

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

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

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

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

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

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

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

[1]* * * * *

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

Provided that this clause shall not apply—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that such company—

(*A*) is registered in India,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[8]* * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

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

[1] * * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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