- (ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the capital of the assessee;
- (iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or
 - (iv) who guarantees not less than ten per cent of the total borrowings of the assessee;
- (b) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;
 - ¹[(ba) "infrastructure facility" means—
 - (i) a road including toll road, a bridge or a rail system;
 - (ii) a highway project including housing or other activities being an integral part of the highway project;
 - (iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;
 - (iv) a port, airport, inland waterway, inland port or navigational channel in the sea;]
 - (c) "specified business" means any one or more of the following business, namely:—
 - (i) setting up and operating a cold chain facility;
 - (ii) setting up and operating a warehousing facility for storage of agricultural produce;
 - (iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;
 - 2 [(*iv*) building and operating, anywhere in India, a 3 [hotel] of two-star or above category as classified by the Central Government;
 - (ν) building and operating, anywhere in India, a ⁴[hospital] with at least one hundred beds for patients;
 - (vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

^{1.} Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).

^{2.} Ins. by Act 14 of 2010, s. 10 (w.e.f. 1-4-2011).

^{3.} Subs. by Act 8 of 2011, s. 6, for "new hotel" (w.e.f. 1-4-2011).

^{4.} Subs. by s. 6, *ibid.*, for "new hospital" (w.e.f. 1-4-2011).

¹[(vii) 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;

(viii) production of fertilizer in India;]

- 2 [(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);
 - (x) bee-keeping and production of honey and beeswax;
 - (xi) setting up and operating a warehousing facility for storage of sugar;]
 - 3 [(xii) laying and operating a slurry pipeline for the transportation of iron ore;
- (xiii) setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed;]
- ⁴[(*xiv*) developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility;]
- (d) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—
 - (i) such machinery or plant was not, at any time prior to the date of the 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 this Act in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee;
- (e) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in such business, then, for the purposes of clause (ii) of sub-section (2), the condition specified therein shall be deemed to have been complied with;
- (f) any expenditure of capital nature shall not include ⁵[any expenditure in respect of which the payment or aggregate of payments made to a person in a day, 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, exceeds ten thousand rupees or] any expenditure incurred on the acquisition of any land or goodwill or financial instrument.]

^{1.} Ins. by Act 8 of 2011, s. 6 (w.e.f. 1-4-2012).

^{2.} Ins. by Act 23 of 2012, s. 9 (w.e.f. 1-4-2013).

^{3.} Ins. by Act 25 of 2014, s. 12 (w.e.f. 1-4-2015).

^{4.} Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).

^{5.} Ins. by Act 7 of 2017, s. 13 (w.e.f. 1-4-2018).

- **35B.** [Export markets development allowance.]—*Omitted by the Direct Tax Laws (Amendment) Act*, 1987 (4 of 1988), s. 10 as amended by Act 3 of 1989, s. 95 (w.e.f.1-4-1989). Earlier inserted by Act 19 of 1968, s. 5 (w.e.f. 1-4-1968).
- **35C.** [Agricultural development allowance.]—Omitted by s. 10, ibid. (w.e.f. 1-4-1988) as amended by s. 95, ibid. (w.e.f.1-4-1989). Earlier inserted s. 5, ibid. (w.e.f. 1-4-1968).
- **35CC.** [Rural development allowance.]—Omitted by s. 10, ibid. (w.e.f. 1-4-1988) as amended by s. 95, ibid. (w.e.f. 1-4-1989). Earlier inserted s. 5, ibid. (w.e.f. 1-4-1968).
- ¹[35CCA.Expenditure by way of payment to associations and institutions for carrying out rural development programmes.— 2 [(1) Where an assessee incurs any expenditure by way of payment of any sum—
 - (a) to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority; or
 - (b) to an association or institution, which has as its object the training of persons for implementing programmes of rural development; ³[or]
 - ⁴[(c) to a rural development fund set up and notified by the Central Government in this ⁵[behalf; or]
 - ⁶[(d) to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,]

the assessee shall, subject to the provisions of sub-section (2), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

- ⁷[(2) The deduction under clause (a) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution referred to in the said clause unless the assessee furnishes a certificate from such association or institution to the effect that—
 - (a) the programme of rural development had been approved by the prescribed authority before the 1st day of March, 1983; and
 - (b) where such payment is made after the 28th day of February, 1983, such programme involves work by way of construction of any building or other structure (whether for use as a dispensary, school, training or welfare centre, workshop or for any other purpose) or the laying of any road or the construction or boring of a well or tube-well or the installation of any plant or machinery, and such work has commenced before the 1st day of March, 1983.]
- (2A) The deduction under clause (b) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution unless the assessee furnishes a certificate from such association or institution to the effect that—
 - (a) the prescribed authority had approved the association or institution before the 1st day of March, 1983; and

^{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 1-4-1988). Original s. 35CCA ins. by Act 19 of 1978, s. 7 (w.e.f. 1-6-1978).

^{2.} Subs. by Act 21 of 1979, s. 5, for sub-section (1) (w.e.f. 1-6-1979).

^{3.} Ins. by Act 11 of 1983, s. 16 (w.e.f. 1-4-1983).

^{4.} Ins. by s. 16, *ibid*. (w.e.f. 1-4-1983).

^{5.} Subs. by Act 22 of 1995, s. 9, for "behalf" (w.e.f. 1-4-1996).

^{6.} Ins. by s. 9, ibid. (w.e.f. 1-4-1996).

^{7.} Subs. by Act 11 of 1983, s. 16 for sub-section (2), (2A) and (2B) (w.e.f. 1-4-1983).

(b) the training of persons for implementing any programme of rural development had been started by the association or institution before the 1st day of March, 1983.]

¹[Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development referred to in subsection (1), shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme of rural development, or as the case may be, to the association or institution has been withdrawn.]

(2B) No certificate of the nature referred to in sub-section (2) or sub-section (2A) shall be issued by any association or institution unless such association or institution has obtained from the prescribed authority authorisation in writing to issue certificates of such nature.]

Explanation.—For the purposes of this section, "programme of rural development" shall have the meaning assigned to it in the Explanation to sub-section (1) of section 35CC.

- (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 section 35C or section 35CC or section 80G or any other provision of this Act for the same or any other assessment year.]
- ²[35CCB. Expenditure by way of payment to associations and institutions for carrying out programmes of conservation of natural resources.—³[(1) ⁴[Where an assessee incurs any expenditure on or before the 31st day of March, 2002] by way of payment of any sum—
 - (a) to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or afforestation approved by the prescribed authority; or
 - (b) to such fund for afforestation as may be notified by the Central Government,

the assessee shall, subject to the provisions of sub-section (2), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

(2) The deduction under ⁵[clause (a) of] sub-section (1) shall not be allowed with respect to expenditure by way of payment of any sum to any association or institution, unless such association or institution is for the time being approved in this behalf by the prescribed authority:

Provided that the prescribed authority shall not grant such approval for more than three years at a time.

- (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 (I), 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.]
- ⁶[35CCC. Expenditure on agricultural extension project.— (1) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with theguidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

^{1.} Ins. by Act 29 of 2006, s. 7 (w.e.f. 1-4-2006).

^{2.} Restored by Act 3 of 1989, s. 95 earlier omitted by Act 4 of 1988, s.10 (w.e.f. 1-4-1989). Original s. 35CCB was inserted by Act 14 of 1982, s. 9 (w.e.f. 1-6-1982).

^{3.} Subs. by Act 12 of 1990, s. 12, for sub-section (*I*) (w.e.f. 1-4-1991).

^{4.} Subs. by Act 20 of 2002, s. 17, for "Where an assessee incurs any expenditure" (w.e.f. 1-4-2003).

^{5.} Ins. by Act 12 of 1990, s. 12 (w.e.f. 1-4-1991).

^{6.} Ins. by Act 23 of 2012, s. 10 (w.e.f. 1-4-2013).

¹[Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words "a sum equal to one and one-half times of", the words "a sum equal to" had been substituted.]

- (2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (I), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]
- ²[35CCD. Expenditure on skill development project.—(1) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.]

³[Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "an amount equal to one and one-half times of", the words "a sum equal to" had been substituted.]

- (2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (I), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]
- ⁴[35D. Amortisation of certain preliminary expenses.— (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2),—
 - (i) before the commencement of his business, or
 - (ii) after the commencement of his business, in connection with the extension of his ⁵[undertaking] or in connection with his setting up a new ⁶[unit],

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the ⁵[undertaking] is completed or the new ⁶[unit] commences production or operation:

⁷[Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one-fifth of such expenditure for each of the five successive previous years" had been substituted.]

- (2) The expenditure referred to in sub-section (1) shall be the expenditure specified in any one or more of the following clauses, namely:—
 - (a) expenditure in connection with—
 - (i) preparation of feasibility report;
 - (ii) preparation of project report;

^{1.} Ins. by Act 28 of 2016, s. 19 (w.e.f. 1-4-2017).

^{2.} Ins. by Act 23 of 2012, s. 10 (w.e.f. 1-4-2013).

^{3.} Ins. by Act 28 of 2016, s. 20 (w.e.f. 1-4-2017).

^{4.} Ins. by Act 42 of 1970, s. 8 (w.e.f. 1-4-1971).

^{5.} Subs. by Act 18 of 2008, s. 8, for "industrial undertaking" (w.e.f. 1-4-2009).

^{6.} Subs. by s. 8, ibid., for "industrial unit" (w.e.f. 1-4-2009).

^{7.} Ins. by Act 21 of 1998, s. 14 (w.e.f. 1-4-1999).

- (iii) conducting market survey or any other survey necessary for the business of the assessee;
- (iv) engineering services relating to the business of the assessee:

Provided that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board;

- (b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;
 - (c) where the assessee is a company, also expenditure—
 - (i) by way of legal charges for drafting the Memorandum and Articles of Association of the company;
 - (ii) on printing of the Memorandum and Articles of Association;
 - (iii) by way of fees for registering the company under the provisions of the Companies Act, 1956 (1 of 1956);
 - (*iv*) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus;
- (d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed.
- (3) Where the aggregate amount of the expenditure referred to in sub-section (2) exceeds an amount calculated at two and one-half per cent—
 - (a) of the cost of the project, or
 - (b) where the assessee is an Indian company, at the option of the company, of the capital employed in the business of the company,

the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (1):

¹[Provided that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words "two and one-half per cent", the words "five per cent" had been substituted.]

Explanation.—In this sub-section—

- (a) "cost of the project" means—
- (i) in a case referred to in clause (i) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the business of the assessee commences;
- (ii) in a case referred to in clause (ii) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the extension of the ²[undertaking] is

^{1.} Ins. by Act 21 of 1998, s. 14 (w.e.f. 1-4-1999).

^{2.} Subs. by Act 18 of 2008, s. 8, for "industrial undertaking" (w.e.f. 1-4-2009).

completed or, as the case may be, the new ¹[unit] commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the ²[undertaking] or the setting up of the new ¹[unit] of the assessee;

- (b) "capital employed in the business of the company" means—
- (i) in a case referred to in clause (i) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences;
- (*ii*) in a case referred to in clause (*ii*) of sub-section (*1*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the ²[undertaking] is completed or, as the case may be, the new ¹[unit] commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the ²[undertaking] or the setting up of the new ²[unit] of the company;

(c) "long-term borrowings" means—

- (i) any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution³[which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36] or any banking institution (not being a financial institution referred to above), or
- (ii) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the terms under which such moneys are borrowed or the debt is incurred provide for the repayment thereof during a period of not less than seven years.
- (4) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, 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.
- (5) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (I) is transferred, before the expiry of the period of ten years specified in sub-section (I), to another Indian company in a scheme of amalgamation,—
 - (i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; 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 amalgamation had not taken place.
- 4 [(5A) Where the undertaking of an Indian company which is entitled to the deduction under subsection (1) is transferred, before the expiry of the period specified in sub-section (1), to another company in a scheme of demerger,—
 - (i) no deduction shall be admissible under sub-section (I) in the case of the demerged company for the previous year in which the demerger takes place; and

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^{1.} Subs. by Act of 18 of 2008, s. 8, for "industrial unit" (w.e.f. 1-4-2009).

^{2.} Subs. by s. 8, ibid., for "industrial undertaking" (w.e.f. 1-4-2009).

^{3.} Subs. by Act 10 of 2000, s. 17, for "which is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (*I*) of section 36" (w.e.f. 1-4-2000).

^{4.} Ins. by Act 27 of 1999, s. 19 (w.e.f. 1-4-2000).

- (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 demerger had not taken place.]
- (6) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.
- ¹[35DD. Amortisation of expenditure in case of amalgamation or demerger.—(1) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.
- (2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.]
- ²[35DDA. Amortisation of expenditure incurred under voluntary retirement scheme.—(1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee ³[in connection with his voluntary retirement], in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.]
- ⁴[(2) Where the assessee, being an Indian company, is entitled to the deduction under sub-section (1) and the undertaking of such Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another Indian company in a scheme of amalgamation, 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 amalgamation had not taken place.
- (3) Where the undertaking of an Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another company in a scheme of demerger, 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 demerger had not taken place.
- (4) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, the provisions of this section shall, as far as may be, apply to the successor company, as they would have applied to the firm or the proprietary concern, if reorganisation of business had not taken place.
- ⁵[(4A) Where there has been reorganisation ofbusiness, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (*xiiib*) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as they would have applied to the said company, if reorganisation of business had not taken place.
- (5) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) in the case of the amalgamating company referred to in sub-section (2), in the case of demerged company referred to in 6 [sub-section (3), in the case of a firm or proprietary concern referred to in sub-section (4)

^{1.} Ins. by Act 27 of 1999, s. 20 (w.e.f. 1-4-2000).

^{2.} Ins. by Act 14 of 2001, s. 24 (w.e.f. 1-4-2001).

^{3.} Subs. by Act 18 of 2005, s. 11, for "at the time of his voluntary retirement" (w.e.f. 1-4-2004).

^{4.} Subs. by Act 20 of 2002, s. 18, for sub-section (2) (w.e.f. 1-4-2001).

^{5.} Ins. by Act 14 of 2010, s. 11 (w.e.f. 1-4-2011).

^{6.} Subs. by s. 11, *ibid.*, for "sub-section (3) and in the case of a firm or proprietary concern referred to in sub-section (4)" (w.e.f. 1-4-2011).

and in the case of a company referred to in sub-section (4A)] of this section, for the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

- (6) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.]
- **35E. Deduction for expenditure on prospecting, etc., for certain minerals.**—(1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2), the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each one of the relevant previous years a deduction of an amount equal to one-tenth of the amount of such expenditure.
- (2) The expenditure referred to in sub-section (1) is that incurred by the assessee after the date specified in that sub-section at any time during the year of commercial production and any one or more of the four years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals:

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(3) Any expenditure—

- (i) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (2) or of any rights in or over such site;
- (ii) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or
- (iii) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the assessee for any of the purposes specified in sub-section (2).

- (4) The deduction to be allowed under sub-section (1) for any relevant previous year shall be—
- (a) an amount equal to one-tenth of the expenditure specified in sub-section (2) (such one-tenth being hereafter in this sub-section referred to as the instalment); or
- (b) such amount as is sufficient to reduce to nil the income (as computed before making the deduction under this section) of that previous year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in subsection (2)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid in respect of which the expenditure was incurred,

whichever amount is less:

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production.

(5) For the purposes of this section,—

- (a) "operation relating to prospecting" means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive;
- (b) "year of commercial production" means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences;
- (c) "relevant previous years" means the ten previous years beginning with the year of commercial production.
- (6) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, 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.
- (7) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (I) is transferred, before the expiry of the period of ten years specified in sub-section (I), to another Indian company in a scheme of amalgamation—
 - (i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; 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 amalgamation had not taken place.
- 1 [(7A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of demerger,—
 - (i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; 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 demerger had not taken place.]
- (8) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.]

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^{1.} Ins. by 27 of 1999, s. 21 (w.e.f. 1-4-2000).

- **36.** Other deductions.—(1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—
 - (i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;
 - ¹[(*ia*) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;]
 - 2 [(*ib*) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—
 - (A) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or
 - (*B*) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (*I*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]
 - (ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

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(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession:

⁵[Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset ⁶*** (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

Explanation.—Recurring subscriptions paid periodically by shareholders, or subscribers in Mutual Benefit Societies which fulfill such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

⁷[(*iiia*) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

^{1.} Ins. by Act 21 of 1979, s. 6 (w.e.f. 1-4-1980).

^{2.} Subs. by Act 21 of 2006, s. 9, for clause (*ib*) (w.e.f. 1-4-2007).

^{3.} The provisos omitted by Act 4 of 1988, s. 11 (w.e.f. 1-4-1989).

^{4.} Clause (iia) omitted by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).

^{5.} Ins. by Act 32 of 2003, s. 18 (w.e.f. 1-4-2004).

^{6.} The words "for extension of existing business or profession" omitted by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).

^{7.} Ins. by Act 18 of 2005, s. 12 (w.e.f. 1-4-2006).

Explanation.—For the purposes of this clause, the expressions—

- (*i*) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company ¹[or scheduled bank] issuing the bond and the amount payable by such company or fund or public sector company ¹[or scheduled bank] on maturity or redemption of such bond;
- (ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

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(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the superannuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

³[(*iva*) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed ten per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;]

(ν) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

 4 [(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (x) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise;]

- (vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;
- (*vii*) subject to the provisions of sub-section (2), the amount of ⁵[any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:]

^{4.} Ins. by Act 11 of 1987, s. 9 (w.e.f. 1-4-1988).

^{1.} Ins. by Act 33 of 2009, s. 14 (w.e.f. 1-4-2009).

^{2.} Clause (iii) omitted by Act 21 of 2006, s. 9 (w.e.f. 1-4-2007).

^{3.} Ins. by Act 8 of 2011, s. 5 (w.e.f. 1-4-2012).

^{5.} Subs. by Act 4 of 1988, s. 11, for "any debt, or part thereof, which is established to have become a bad debt in the previous year" (w.e.f. 1-4-1989).

¹[Provided that in the case of ²[an assesse] to which clause (*viia*) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause:]

³[Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.]

⁴[⁵[Explanation1].—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee;]

⁶[Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches;]

⁷[(viia) ⁸[in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being ⁹*** a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank ¹⁰[or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank], an amount ¹¹[not exceeding ¹²[eight and one-half per cent.]] of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ¹³[ten per cent.] of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner:

¹⁴[Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:]

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^{1.} Ins. by Act 32 of 1985, s. 10 (w.e.f. 1-4- 1985).

^{2.} Subs. by Act 26 of 1997, s. 7, for "a bank" (w.e.f. 1-4-1992).

^{3.} Ins. by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).

^{4.} Ins. by Act 14 of 2001, s. 25 (w.e.f. 1-4-1989).

^{5.} Explanation renumbered as Explanation 1 thereof by Act 17 of 2013, s. 7 (w.e.f. 1-4-2014).

^{6.} Ins. by s. 7, ibid. (w.e.f. 1-4-2014).

^{7.} Ins. by Act 21 of 1979, s. 6 (w.e.f. 1-4-1980).

^{8.} Subs. by Act 26 of 1986, s. 2, for certain words (w.e.f. 1-4-1987).

^{9.} The words "a bank approved by the Central Government for the purpose of clause (*viiia*) or" omitted by Act 32 of 1994, s. 14 (w.e.f. 1-4-1995).

^{10.} Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2007).

^{11.} Subs. by Act 20 of 2002, s. 19, for "not exceeding five per cent." (w.e.f. 1-4-2003).

^{12.} Subs. by Act 7 of 2017, s. 14 for "seven and one-half per cent." (w.e.f. 1-4-2018).

^{13.} Subs. by Act 32 of 1994, s. 14, for "four per cent." (w.e.f. 1-4-1995).

^{14.} Ins. by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).

¹[Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent." had been substituted:]

²[Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession.]

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;]

(b) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);]

³[(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):]

¹[Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year.]

⁴[(d) a non-banking financial company, an amount not exceeding five per cent. of the total income (computed before making any deduction under this clause and Chapter VI-A).]

Explanation.—For the purposes of this clause,—

⁵[(i) "non-scheduled bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

⁶[(*ia*)]"rural branch" means a branch of a scheduled bank ⁷[or a non-scheduled bank] situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

^{1.} Ins. by Act 20 of 2002, s. 19 (w.e.f 1-4-2003).

^{2.} Ins. by Act 32 of 2003, s. 18 (w.e.f. 1-4-2004).

^{3.} Ins. by Act 49 of 1991, s. 14 (w.e.f. 1-4-1992).

^{4.} Ins. by Act 28 of 2016, s. 21 (w.e.f. 1-4-2017).

^{5.} Ins. by Act 14 of 1982, s. 10 (w.e.f. 1-4-983).

^{6.} Clause (i) renumbered as clause (ia) thereof by Act 14 of 1982, s. 10 (w.e.f. 1-4-1983).

^{7.} Ins. by s. 10, ibid. (w.e.f. 1-4-1983).

- ¹[(*ii*) "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) ²***;
- ³[(*iii*) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- (*iv*) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);
- (v) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and ⁴[eligible for deduction under clause (viii) of this sub-section];]
- ⁵[(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P;]
- ⁶[(*vii*) "non-banking financial company" shall have the meaning assigned to it in clause (*f*) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);]
- ⁷[(*viii*) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

- (a) "specified entity" means,—
- (i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);
 - (ii) a financial corporation which is a public sector company;

7. Subs. by Act 22 of 2007, s. 13, for clause (viii) (w.e.f. 1-4-2008).

^{1.} Subs. by Act 4 of 1988, s. 10, for clause (ii) (w.e.f. 1-4-1989).

^{2.} The words "but does not include a co-operative bank" omitted by Act 22 of 2007, s. 11 (w.e.f. 1-4-2007).

^{3.} Ins. by Act 49 of 1991, s. 12 (w.e.f. 1-4-1992).

^{4.} Subs. by Act 10 of 2000, s. 18, for "a sum equal to one and one-fourth times of the expenditure" (w.e.f. 1-4-2000).

^{5.} Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2007).

^{6.} Ins. by Act 28 of 2016, s. 21 (w.e.f. 1-4-2017).

- (iii) a banking company;
- (*iv*) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;
 - (v) a housing finance company; and
 - (vi) any other financial corporation including a public company;
- (b) "eligible business" means,—
- ¹[(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—
 - (A) industrial or agricultural development;
 - (B) development of infrastructure facility in India; or
 - (C) development of housing in India;]
- (ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and
- (iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India:
- (c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act:
- (d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;
- (e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;
- (f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);
 - (g) "infrastructure facility" means—
 - (i) an infrastructure facility as defined in the *Explanation* to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;
 - (ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

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^{1.} Subs. by Act 33 of 2009, s. 14, for clause (i) (w.e.f. 1-4-2010).

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "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;]

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 2 [(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees:

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years:

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation:

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of 3 [sub-section (2) and sub-section (5) of section 35], of sub-section (3) of section 41 and of *Explanation* 1 to clause (I) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;]

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⁵[(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system:

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act:

Provided further that no such deduction shall 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 clause.

3. Subs. by Act 20 of 1967, s. 15, for "sub-section (2) of section 35" (w.e.f. 1-4-1967).

^{1.} Clause (viiia) omitted by Act 32 of 1994, s. 14 (w.e.f. 1-4-1995).

^{2.} Ins. by Act 10 of 1965, s. 11 (w.e.f. 1-4-1965).

^{4.} Clause (x) omitted by Act 22 of 2007, s. 13 (w.e.f. 1-4-2008).

^{5.} Ins. by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).

Explanation.—For the purposes of this clause,—

- (a) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control:
- (b) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;]
- ¹[(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—
 - (a) it is constituted or established by gima Central, State or Provincial Act;
 - (b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and
 - (c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;]
- ²[(*xiii*) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;]

 3 [(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);]

 4 [(xv)] an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

^{1.} Subs. by Act 22 of 2007, s. 13, for clause (xii) (w.e.f. 1-4-2008).

^{2.} Ins. by Act 18 of 2005, s. 12 (w.e.f. 1-4-2006).

^{3.} Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2008).

^{4.} Ins. by Act 18 of 2008, s. 9 (w.e.f. 1-4-2009).

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

¹[(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;]]

²[(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government.]

³[(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.]

- (2) In making any deduction for a bad debt or part thereof, the following provisions shall apply—
- 4 [(*i*) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;]
- (ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;
- (*iii*) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year ⁵[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)], but the ⁶[Assessing Officer] had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;
- (*iv*) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year ⁵[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)] and the ⁶[Assessing Officer] is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;
- $^{7}[(v)]$ where such debt or part of debt relates to advances made by an assessee to which clause (*viia*) of sub-section (*I*) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.]

^{1.} Ins. by Act 17 of 2013, s. 7 (w.e.f. 1-4-2014).

^{2.} Ins. by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).

^{3.} Ins. by Act 13 of 2018, s. 10 (w.r.e.f. 1-4-2017).

^{4.} Subs. by Act 4 of 1988, s. 11, for clause (i) (w.e.f. 1-4-1989).

^{5.} Ins. by s. 11, *ibid*. (w.e.f. 1-4-1989).

^{6.} Subs. by s. 11, ibid., for "Income-tax Officer" (w.e.f. 1-4-1988).

^{7.} Subs. by Act 26 of 1997, s. 7, for clause (v) (w.e.f. 1-4-1992).

37. General.—(1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 ¹*** and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

²[³[Explanation 1.]—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.]

⁴[Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of subsection (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.]

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⁶[(2B) Notwithstanding anything contained in sub-section (1), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.]

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38. Building, etc., partly used for business, etc., or not exclusively so used.—(1) Where a part of any premises is used as dwelling house by the assessee,—

(a) the deduction under sub-clause (i) of clause (a) of section 30, in the case of rent, shall be such amount as the ¹⁰[Assessing Officer] may determine having regard to the proportionate annual value of the part used for the purpose of the business or profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession;

- (b) the deduction under clause (b) of section 30 shall be such sum as the ⁸[Assessing Officer] may determine having regard to the part so used.
- (2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (ii) of clause (a) and clause (c) of section 30,

^{1.} The words "and section 80VV" omitted by Act 32 of 1985, s. 11 (w.e.f. 1-4-1986).

^{2.} Ins. by Act 21 of 1998, s. 15 (w.e.f. 1-4-1962).

^{3.} Explanation numbered as Explanation 1 thereof by Act 25 of 2014, s. 13 (w.e.f. 1-4-2015).

^{4.} Ins. by s. 13, ibid. (w.e.f. 1-4-2015).

^{5.} Sub-section (2) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

^{6.} Ins. by Act 29 of 1978, s. 2 (w.e.f. 1-4-1979).

^{7.} Sub-section (3) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

^{8.} Sub-sections (3A), (3B), (3C) and (3D) omitted by Act 32 of 1985, s. 11 (w.e.f. 1-4-1986).

^{9.} Sub-sections (4) and (5) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

^{10.} Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer", (w.e.f. 1-4-1988).

clauses (i) and (ii) of section 31 and 1 [clause (ii) of sub-section (1)] of section 32 shall be restricted to a fair proportionate part thereof which the 2 [Assessing Officer] may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business or profession.

- **39. Managing agency commission.**—Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 12, (w.e.f. 1-4-1989).
- **40. Amounts not deductible.**—Notwithstanding anything to the contrary in ³[section 30 to 38], the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—
 - (a) in the case of any assessee—
 - ⁴[(*i*) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—
 - (A) outside India; or
 - (B) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid ⁵[on or before the due date specified in sub-section (1) of section 139]:

⁶[Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.]

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

- (A) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;
- (B) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;
- (*ia*) ⁷[thirty per cent of any sum payable to a resident], on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, ⁸[has not been paid on or before the due date specified in sub-section (*I*) of section 139:]

⁹[Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, ¹⁰[thirty per cent of] such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid:]

^{1.} Subs. by Act 46 of 1986, s. 32, for "clause (i), (ii), (iia) and (iii) of sub-section (1) and sub-section (1A)" (w.e.f. 1-4-1988)

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

^{3.} Subs. by s. 13, *ibid.*, for "section 30 to 39" (w.e.f. 1-4-1989).

^{4.} Subs. by Act 23 of 2004, s. 11, for sub-clause (i) (w.e.f. 1-4-2005).

^{5.} Subs. by Act 25 of 2014, s. 14, for certain words, brackets and figures (w.e.f. 1-4-2015).

^{6.} Subs. by s. 14, *ibid.*, for the proviso (w.e.f. 1-4-2015).

^{7.} Subs. by s. 14, *ibid.*, for certain words and brackets (w.e.f. 1-4-2015).

^{8.} Subs. by Act 14 of 2010, s. 12, for certain words, brackets and figures (w.e.f. 1-4-2010).

^{9.} Subs. by s. 12, *ibid.*, for proviso (w.e.f. 1-4-2010).

^{10.} Ins. by Act 25 of 2014, s. 14 (w.e.f. 1-4-2015).

¹[Provided further that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (*I*) of section 201, then, for the purpose of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso.]

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

- (i) "commission or brokerage" shall have the same meaning as in clause (i) of the Explanation to section 194H;
- (ii) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;
- (iii) "professional services" shall have the same meaning as in clause (a) of the Explanation to section 194J;
 - (iv) "work" shall have the same meaning as in Explanation III to section 194C;
- $^{2}[(v)]$ "rent" shall have the same meaning as in clause (i) to the *Explanation* to section 194-I;
- (vi) "royalty" shall have the same meaning as in *Explanation* 2 to clause (vi) of sub-section (I) of section 9;]
- ³[(*ib*) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under the provisions of Chapter VIII of the Finance Act, 2016, and such levy has not been deducted or after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139:

Provided that where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (I) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid;]]

⁴[(ic) any sum paid on account of fringe benefit tax under Chapter XIIH;]

(ii) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains.

⁵[Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes and shall be deemed always to have included any sum eligible for relief of tax under section 90 or, as the case may be, deduction from the Indian income-tax payable under section 91.]

^{1.} Ins. by Act 23 of 2012, s. 11 (w.e.f. 1-4-2013).

^{2.} Ins. by Act 29 of 2006, s. 8 (w.e.f. 1-4-2006).

^{3.} Ins. by Act 28 of 2016, s. 22 (w.e.f. 1-6-2016).

^{4.} Ins. by Act 18 of 2005, s. 13 (w.e.f. 1-4-2006).

^{5.} Ins. by Act 21 of 2006, s. 10 (w.e.f. 1-4-2006).

¹[Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes any sum eligible for relief of tax under section 90A;]

 2 [(*iia*) any sum paid on account of wealth-tax.

Explanation.—For the purposes of this sub-clause, "wealth-tax" means wealth-tax chargeable under the Wealth-tax Act, 1957 (27 of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession;]

³[(*iib*) any amount—

- (A) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or
- (B) which is appropriated, directly or indirectly, from, a State Government undertaking by the State Government.

Explanation.—For the purposes of this sub-clause, a State Government undertaking includes—

- (i) a corporation established by or under any Act of the State Government;
- (ii) a company in which more than fifty per cent of the paid-up equity share capital is held by the State Government;
- (iii) a company in which more than fifty per cent of the paid-up equity share capital is held by the entity referred to in clause (i) or clause (ii) (whether singly or taken together);
- (*iv*) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;
- (ν) an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;]
- ⁴[(iii) any payment which is chargeable under the head "Salaries", if it is payable—
 - (A) outside India; or
 - (B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;]

^{1.} Ins. by Act 21 of 2006, s. 10 (w.e.f. 1-6-2006).

^{2.} Ins. by Act 41 of 1972, s. 2 (w.e.f. 1-4-1962).

^{3.} Ins. by Act 17 of 2013, s. 8 (w.e.f. 1-4-2014).

^{4.} Subs. by Act 32 of 2003, s. 19, for sub-clause (iii) (w.e.f. 1-4-2004).

- (*iv*) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries";
 - $^{1}[(v)]$ any tax actually paid by an employer referred to in clause (10CC) of section 10;]
- ²[(b) in the case of any firm assessable as such,—
- (i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration") to any partner who is not a working partner; or
- (ii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or
- (iii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or
- (*iv*) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at the rate of ³[twelve per cent.] simple interest per annum; or
- (ν) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder:—

 4 [(a) on the first Rs. 3,00,000 of the Rs. 1,50,000 or at the rate of 90 per cent. book-profit or in case of a loss of the book-profit, whichever is more;

(b) on the balance of the book-profit at the rate of 60 per cent:]

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

Explanation 1.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

2. Subs. by Act 18 of 1992, s. 16, for clause (b) (w.e.f. 1-4-1993). Earlier amended by Act 67 of 1984, s. 10 (w.e.f. 1-4-1985), Act 4 of 1988, s. 13 and 3 of 1989, s. 95 (w.e.f. 1-4-1989).

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

^{3.} Subs. by Act 20 of 2002, s. 20, for "eighteen per cent." (w.e.f. 1-6-2002).

^{4.} Subs. by Act 33 of 2009, s. 15, for Items (1) and (2) (w.e.f. 1-4-2010).

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

Explanation 3.—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Explanation 4.—For the purposes of this clause, "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;]

¹[(ba) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively),—

- (i) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;
- (*ii*) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.]

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^{1.} Ins. by Act 3 of 1989, s. 9 (w.e.f. 1-4-1989).

^{2.} Clause (c) omitted by Act 4 of 1988, s. 13 (w.e.f. 1-4-1989).

^{3.} Clause (d) omitted by Act 26 of 1988, s. 11 (w.e.f. 1-4-1989).

- ¹[40A. Expenses or payments not deductible in certain circumstances.—(1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession".
- (2) (a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the ²[Assessing Officer] is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction:

³[Provided that ⁴[for an assessment year commencing on or before the 1st day of April, 2016] no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (*ii*) of section 92F.]

(b) The persons referred to in clause (a) are the following, namely:—

(i) where the assessee is an individual any relative of the assessee;

(ii) where the assessee is a company, any director of the company, partner of the firm,

firm, association of persons or or member of the association or family, or any

Hindu un-divided family relative of such director, partner or member;

- (iii) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;
- (iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member ⁵[or any other company carrying on business or profession in which the first mentioned company has substantial interest;]
- (v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;
 - (vi) any person who carries on a business or profession,—
 - (A) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or

^{1.} Ins. by Act 19 of 1968, s. 7 (w.e.f 1-4-1968).

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

^{3.} Ins. by Act 23 of 2012, s. 12 (w.e.f. 1-4-2013).

^{4.} Ins. by Act 7 of 2017, s. 15 (w.e.f. 1-4-2017).

^{5.} Ins. by Act 23 of 2012, s. 12 (w.e.f. 1-4-2013).

(B) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if,—

- (a) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and
- (b) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the profits of such business or profession.
- ¹[(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, ²[or use of electronic clearing system through a bank account, exceeds ten thousand rupees], no deduction shall be allowed in respect of such expenditure.
- (3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft ³[or use of electronic clearing system through a bank account], the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds ⁴[ten thousand rupees]:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, ²[or use of electronic clearing system through a bank account, exceeds ten thousand rupees], in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors:]

⁵[Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words ⁴[ten thousand rupees], the words "thirty-five thousand rupees" had been substituted.]

⁶[(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by ⁷[an account payee cheque drawn on a bank or account payee bank draft] ³[or use of electronic clearing system through a bank account] in order that such expenditure may not be disallowed as a deduction under sub-section (3), then the payment may be made by such cheque or draft; ⁸[or electronic clearing system] and where the

^{1.} Subs. by Act 18 of 2008, s. 11, for sub-section (3) (w.e.f. 1-4-2009).

^{2.} Subs. by Act 7 of 2017, s. 15, for "exceeds twenty thousand rupees" (w.e.f. 1-4-2018).

^{3.} Ins. by s. 15, ibid. (w.e.f. 1-4-2018).

^{4.} Subs. by s. 15, ibid., for "twenty thousand rupees" (w.e.f. 1-4-2018).

^{5.} Ins. by Act 33 of 2009, s. 16 (w.e.f. 1-10-2009).

^{6.} Ins. by Act 14 of 1969, s. 5 (w.e.f. 1-4-1969).

^{7.} Subs. by Act 29 of 2006, s. 9, for the words "a crossed cheque drawn on a bank or by a crossed bank draft" (w.e.f. 13-7-2006).

^{8.} Ins. by Act 7 of 2017, s. 15 (w.e.f 1-4-2018).

payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner.]

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- ²[(7) (a) Subject to the provisions of clause (b), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.
- (b) Nothing in clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Explanation.—For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid.]

- 4 [(9) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860), or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) 5 [or clause (iva)] or clause (v) of sub-section (I) of section 36, or as required by or under any other law for the time being in force.
- (10) Notwithstanding anything contained in sub-section (9), where the ⁶[Assessing Officer] is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has, before the 1st day of March, 1984, bona fide laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (9) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.
- (11) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (9), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled—
 - (*i*) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount) be repaid to him, and where any claim is so made, the unutilised amount shall be repaid, as soon as may be, to him;

5. Ins. by Act 8 of 2011, s. 8 (w.e.f. 1-4-2012).

^{1.} Sub-sections (5) and (6) omitted by Act 4 of 1988, s. 14 (w.e.f. 1-4-1989).

^{2.} Subs. by Act 27 of 1999, s. 23, for sub-section (7) (w.e.f. 1-4-2000).

^{3.} Sub-section (8) omitted by Act 32 of 1985, s. 12 (w.e.f. 1-4-1986).

^{4.} Ins. by Act 21 of 1984, s. 10 (w.e.f. 1-4-1980).

^{6.} Subs. by Act 4 of 1988, s. 2 for "income-tax officer" (w.e.f. 1-4-1988).

(ii) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him.]

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- $^{2}[(13)$ No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as allowable under clause (*xviii*) of sub-section (1) of section 36.]
- **41. Profits chargeable to tax.**—³[(1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—
 - (a) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or
 - (b) the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (a) by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

⁴[Explanation 1.—For the purposes of this sub-section, the expression "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause (a) or the successor in business under clause (b) of that sub-section by way of writing off such liability in his accounts.]

Explanation ⁵[2]—For the purposes of this sub-section, "successor in business" means,—

- (i) where there has been an amalgamation of a company with another company, the amalgamated company;
- (ii) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;
- (iii) where a firm carrying on a business or profession is succeeded by another firm, the other firm;]
 - $^{6}[(iv)]$ where there has been a demerger, the resulting company.]
- ⁷[(2) Where any building, machinery, plant or furniture,—
 - (a) which is owned by the assessee;

^{1.} Sub-section (12) omitted by Act 18 of 1992, s. 17 (w.e.f. 1-4-1993.)

^{2.} Ins. by Act 13 of 2018, s. 11 (w.r.e.f. 1-4-2017).

^{3.} Subs. by Act 18 of 1992, s. 18, for sub-section (1) (w.e.f. 1-4-1993).

^{4.} Ins. by Act 33 of 1996, s. 16 (w.e.f. 1-4-1997).

^{5.} Explanation renumbered as Explanation2 thereof by s. 16, ibid. (w.e.f. 1-4-1997).

^{6.} Ins. by Act 27 of 1999, s. 24 (w.e.f. 1-4-2000).

^{7.} Ins. by Act 21 of 1998, s. 16 (w.e.f. 1-4-1998).

- (b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and
 - (c) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.]

 $^{1}*$ * * * *

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of 2 [clause (iv) of sub-section (I), or clause (c) of sub-section (2B), of section 35], read with clause (I) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (I) of [I] or, as the case may be, the amount of the deduction under clause (I) of sub-section (I), or clause (I) of sub-section (I), of section 35] exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

Explanation.—Where the moneys payable in respect of any asset referred to in this sub-section become due 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 a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vii) of sub-section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

⁴[Explanation.—For the purposes of sub-section (3),—

- (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

^{1.} Sub-section (2A) omitted by Act 46 of 1986, s. 7 (w.e.f. 1-4-1988).

^{2.} Subs. by Act 44 of 1980, s. 11, for the words, brackets and figures "clause (iv) of subsection (I) of section 35" (w.e.f. 1-4-1981).

^{3.} Subs. by s. 11, *ibid.*, for "clause (*ia*) of sub-section (2) of section 35" (w.e.f. 1-4-1981). Earlier Quoted portion "or, as the case may be, the amount of the deduction under clause (*ia*)" inserted by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).

^{4.} Subs. by Act 46 of 1986, s. 7, for the Explanation (w.e.f. 1-4-1988).

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 an Indian company.]
- ¹[(4A) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (*viii*) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve 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 the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1), $^{2}***$ sub-section (3), 3 [sub-section (4) or sub-section (4A)] in respect of that business or profession, any loss, not being a loss sustained in speculation $^{4}***$ business, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid.
- ⁵[(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.]
- **42.** Special provision for deductions in the case of business for prospecting, etc., for mineral oil.— $^{6}[(1)]$ For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the $^{7}[$ association or participation of the Central Government or any person authorised by it in such business] (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—
 - (a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee;
 - (b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32: 8***

⁹[Provided that in relation to any agreement entered into after the 31st day of March, 1981, this clause shall have effect subject to the modification that the words and figures "except assets on which allowance for depreciation is admissible under section 32" had been omitted; and]

^{1.} Ins. by Act 26 of 1997, s. 9 (w.e.f. 1-4-1998).

^{2.} The words, brackets and figures "sub-section (2), sub-section (2A)" omitted by Act 46 of 1986, s. 7 (w.e.f. 1-4-1988).

^{3.} Subs. by Act 26 of 1997, s. 9, for "or sub-section (4)" (w.e.f. 1-4-1998).

^{4.} The words "or under the head Capital gains" omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1988).

^{5.} Ins. by Act 4 of 1988, s. 126(w.e.f. 1-4-1989).

^{6.} Section 42 renumbered as sub-section (*I*) thereof by Act 21 of 1998, s. 17 (w.e.f. 1-4-1999).

^{7.} Subs. by Act 16 of 1981, s. 8, for "the association or participation in such business of the Central Government" (w.e.f. 1-4-1981).

^{8.} The word "and" omitted bys. 8, ibid.(w.e.f. 1-4-1981).

^{9.} Ins. by s. 8, *ibid*. (w.e.f. 1-4-1981)

(c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement;

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement.

- ¹[(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—
 - (a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;
 - (b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein 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 business or interest therein, whether wholly or partly, had been transferred:

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

²[Provided that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section—

- (i) shall not apply in the case of the amalgamating or the demerged company; and
- (ii) 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 latter had not transferred the business or interest in the business.]]

³[Explanation.—For the purposes of this section, "mineral oil" includes petroleum and natural gas.]

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^{1.} Ins. by Act 21 of 1998, s. 17 (w.e.f. 1-4-1999).

^{2.} Subs. by Act 27 of 1999, s. 25, for "the proviso" (w.e.f. 1-4-2000).

^{3.} Ins. by Act 16 of 1981, s. 8 (w.e.f. 1-4-1981).

- 43. Definitions of certain terms relevant to income from profits and gains of business or profession.—In section 28 to 41 and in this section, unless the context otherwise requires—
 - (1) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority:

¹[Provided that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967 ²[, but before the 1st day of March, 1975,] and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees:]

³[Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, 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, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.]

Explanation 1.—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under 4 [clause (ii) of sub-section (I)] of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (iv) of sub-section (I) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (11 of 1922).

⁵[Explanation 1A.—Where a capital asset referred to in clause (*via*) of section 28 is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the said clause.]

⁶[Explanation 2.—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

- (a) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and
- (b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets.]

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the ⁷[Assessing Officer] is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the ⁷[Assessing Officer] may, with the previous approval of the ⁸[Joint Commissioner], determine having regard to all the circumstances of the case.

^{1.} Ins. by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).

^{2.} Ins. by Act 25 of 1975, s. 7 (w.e.f. 1-4-1975).

^{3.} Ins. by Act 7 of 2017, s. 16 (w.e.f. 1-4-2018).

^{4.} Subs. by Act 46 of 1986, s. 8, for "clause (i), clause (ii) or clause (iii) or sub-section (1) or sub-section (1A)" (w.e.f. 1-4-1988).

^{5.} Ins. by Act 13 of 2018, s. 12 (w.e.f. 1-4-2019).

^{6.} Subs. by Act 46 of 1986, s. 8, for Explanation 2 (w.e.f. 1-4-1988).

^{7.} Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).

^{8.} Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998).

¹[Explanation 4.—Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

- (i) the actual cost to him when he first acquired the asset as reduced by—
- (a) the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and
- (b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or
- (ii) the actual price for which the asset is re-acquired by him,

whichever is less.]

²[Explanation 4A.—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in Explanation 3, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.]

Explanation 5.—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee.

³[Explanation 6.—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee-company shall be taken to be the same as it would have been if the transferor-company had continued to hold the capital asset for the purposes of its business.]

⁴[Explanation 7.—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.]

^{1.} Subs. by Act 46 of 1986, s. 8, for Explanation 8 (w.e.f. 1-4-1988).

^{2.} Ins. by Act 33 of 1996, s. 17 (w.e.f. 1-10-1996).

^{3.} Ins. by Act 10 of 1965, s. 14 (w.e.f. 1-4-1965).

^{4.} Ins. by Act 20 of 1967, s. 16 (w.e.f. 1-4-1967).

¹[Explanation 7A.—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business:

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.]

²[Explanation 8.—For the removal of doubts, it is hereby declared that where any amount is paid or is payable as interest in connection with the acquisition of an asset, so much of such amount as is relatable to any period after such asset is first put to use shall not be included, and shall be deemed never to have been included, in the actual cost of such asset.]

³[Explanation 9.—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.]

⁴[Explanation 10.—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee:

Provided that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.]

¹[Explanation 11.—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.]

⁵[Explanation 12.—Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatization.]

2. Ins. by Act 23 of 1986, s. 9 (w.e.f. 1-4-1974).

5. Ins. by Act 14 of 2001, s. 26 (w.e.f. 1-4-2002).

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^{1.} Ins. by Act 27of 1999, s. 26 (w.e.f. 1-4-2000).

^{3.} Ins. by Act 21 of 1998, s. 18 (w.e.f. 1-4-1994).

^{4.} Ins. by s. 18, *ibid*. (w.e.f. 1-4-1999).

¹[Explanation 13.—The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—

- (a) in the case of such assessee; and
- (b) in any other case if the capital asset is acquired or received,—
 - (i) by way of gift or will or an irrevocable trust;
 - (ii) on any distribution on liquidation of the company; and
- (iii) by such mode of transfer as is referred to in clauses (i), (iv), (v), (vi), (vib), ${}^{2}[(xiii), (xiiib)]$ and (xiv)] of section 47:]

³[Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of subsection (7B) of the said section, the actual cost of the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition.]

- (2) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";
- (3) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession ⁴[but does not include tea bushes or livestock]⁵[or buildings or furniture and fittings];
- (4) (i) "scientific research" means any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries;
- (ii) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research;
 - (iii) references to scientific research related to a business or class of business include—
 - (a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class;
 - (b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class;
- (5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

^{1.} Ins. by Act 33 of 2009, s. 17 (w.e.f. 1-4-2010).

^{2.} Subs. by Act 14 of 2010, s. 13, for "(xiii) and (xiv)" (w.e.f. 1-4-2011).

^{3.} The proviso ins by Act 7 of 2017, s. 16 (w.e.f. 1-4-2018).

^{4.} Ins. by Act 22 of 1995, s. 12 (w.e.f. 1-4-1962).

^{5.} Ins. by Act 32 of 2003, s. 20 (w.e.f. 1-4-2004).

- (b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or
- (c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; ¹[or]
- 1 [(*d*) an eligible transaction in respect of trading in derivatives referred to in clause 2 [(*ac*)] of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; 3 [or]]
- ³[(e) an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association ⁴[, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),]

shall not be deemed to be a speculative transaction.

⁵[Provided further that for the purposes of clause (*e*) of the first proviso, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 shall not apply.]

¹ [⁶[Explanation 1].—For the purposes of ⁷[clause (d)], the expressions—

- (i) "eligible transaction" means any transaction,—
- (A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and
- (*B*) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (*A*) and permanent account number allotted under this Act:
- (ii) "recognised stock exchange" means a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.]

(i) "commodity derivative" shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

⁸[Explanation 2.—For the purposes of clause (e), the expressions—

^{1.} Ins. by Act 18 of 2005, s. 14 (w.e.f. 1-4-2006).

^{2.} Subs. by Act 21 of 2006, s. 11, for "(aa)" (w.e.f. 1-4-2006).

^{3.} Ins. by Act 17 of 2013, s. 9 (w.e.f. 1-4-2014).

^{4.} Subs. by Act 25 of 2014, s. 15, for "recognised association" (w.e.f. 1-4-2014).

^{5.} Ins. by Act 13 of 2018, s. 12 (w.e.f. 1-4-2019).

^{6.} The Explanation renumbered as Explanation 1 by Act 17 of 2013, s. 9 (w.e.f. 1-4-2014).

^{7.} Subs. by s. 9, *ibid.*, "this clause" (w.e.f. 1-4-2013).

^{8.} Ins. by s. 9, *ibid*. (w.e.f. 1-4-2014).

- (ii) "eligible transaction" means any transaction,—
- (A) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws, rules and regulations of the recognised association for trading in commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and the rules, regulations or bye-laws made or directions issued under that Act on a recognised association; and
- (B) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (A), unique trade number and permanent account number allotted under this Act;
- (*iii*) "recognised association" means a recognised association as referred to in clause (*j*) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and which fulfils such conditions as may be prescribed and is notified by the Central Government for this purpose;]
- (6) "written down value" means—
 - (a) in the case of assets acquired in the previous year, the actual cost to the assessee;
- (b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Incometax Act, 1886 (2 of 1886), was in force:

¹[Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (*ii*) of sub-section (*I*) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (*a*), (*b*) and (*c*) of clause (*vi*) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (*vi*);]

- 2 [(c) in the case of any block of assets,—
- (i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,—
 - (A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;
 - (B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and
 - ³[(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—
 - (a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

^{1.} Ins. by Act 15 of 1965, s. 6 (w.e.f. 1-4-1962).

^{2.} Ins. by Act 46 of 1986, s. 8 (w.e.f. 1-4-1988).

^{3.} Ins. by Act 27 of 1999, s. 26 (w.e.f. 1-4-2000).

- (b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets, so, however, that the amount of such decrease does not exceed the written down value;]
- (ii) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by the increase or the reduction referred to in item (i).

Explanation 1.—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down ¹[value of any asset or any block of assets] shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

²[Explanation 2.—Where in any previous year, any block of assets is transferred,—

- (a) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied; or
- (b) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the transferee-company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor-company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.]

³[Explanation 2A.—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the ⁴[written down value of the assets] transferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets in the case of the resulting company shall be the ⁵[written down value of the transferred assets ⁶***] of the demerged company immediately before the demerger.

4. Subs. by Act 10 of 2000, s. 19, for "book value of the assets" (w.e.f. 1-4-2000).

^{1.} Subs. by Act 46 of 1986, s. 8, for "any asset" (w.e.f. 1-4-1988).

^{2.} Subs. by s. 8, ibid., for Explanation 2 and Explanation 2A (w.e.f. 1-4-1988).

^{3.} Ins. by Act 27 of 1999, s. 26 (w.e.f. 1-4-2000).

^{5.} Subs. by s. 19, *ibid.*, for "value of the assets as appearing in the books of account" (w.e.f. 1-4-2000).

^{6.} The words "as appearing in the books of account" omitted by Act 32 of 2003, s. 20 (w.e.f. 1-4-2004).

¹[Explanation 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (I), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.]

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Explanation 3.—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed".

³[Explanation 4.—For the purposes of this clause, the expressions "moneys payable" and "sold" shall have the same meanings as in the Explanation below sub-section (4) of section 41.]

⁴[Explanation 5.—Where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer.]

⁵[Explanation 6.—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

- (a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;
- (b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and
- (c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.]

⁶[Explanation 7.—For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.]

^{1.} Ins. by Act 14 of 2010, s. 13 (w.e.f. 1-4-2011).

^{2.} The proviso omitted by Act 10 of 2000, s. 19 (w.e.f. 1-4-2000).

^{3.} Ins. by Act 46 of 1986, s. 8 (w.e.f 1-4-1988).

^{4.} Ins. by Act 14 of 2001, s. 26 (w.e.f. 1-4-2002).

^{5.} Ins. by Act 18 of 2008, s. 12 (w.e.f. 1-4-2003).

^{6.} Ins. by Act 33 of 2009, s. 17 (w.e.f. 1-4-2010).

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

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

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

- (i) the actual cost of the asset as defined in clause (1) of section 43; or
- (ii) the amount of expenditure of a capital nature referred to in clause (iv) of sub-section (1) of section 35; or
 - (iii) the amount of expenditure of a capital nature referred to in section 35A; or
- (iv) the amount of expenditure of a capital nature referred to in clause (ix) of sub-section (1) of section 36; or
- (ν) the cost of acquisition of a capital asset (not being a capital asset referred to in section 50) for the purposes of section 48,

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

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

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

- (a) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
- (b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

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

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

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

- ¹[43AA. Taxation of foreign exchange fluctuation.—(1) Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.
- (2) For the purposes of sub-section (1), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to—
 - (i) monetary items and non-monetary items;
 - (ii) translation of financial statements of foreign operations;
 - (iii) forward exchange contracts;
 - (iv) foreign currency translation reserves.]
- ²[43B. Certain deductions to be only on actual payment.—Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—
 - ³[(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or]
 - (b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, ⁴[or]
 - 4 [(c) any sum referred to in clause (ii) of sub-section (1) of section 36,] 5 [or]
 - ⁵[(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution ⁶[or a State financial corporation or a State industrial investment corporation], in accordance with the terms and conditions of the agreement ⁷[governing such loan or borrowing; or]
 - ⁸[(e) any sum payable by the assessee as interest on any ⁹[loan or advances] from a scheduled bank ¹⁰[or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank] in accordance with the terms and conditions of the agreement governing ¹¹[such loan or advances], ¹²[or]
 - 12 [(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his 13 [employee, or]]
 - $^{14}[(g)]$ any sum payable by the assessee to the Indian Railways for the use of railway assets,]

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

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

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

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

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

 6 [Explanation⁷[3].—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause $(c)^{8}$ [or clause (d)] of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

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

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

^{1.} Ins. by Act 11 of 1987, s. 10 (w.e.f. 1-4-1988).

^{2.} The words "referred to in clause (a) or clause (c) or clause (d) or clause (f)" omitted by Act 32 of 2003, s. 21 (w.e.f. 1-4-2004).

^{3.} The second proviso omitted by s. 21, *ibid*. (w.e.f. 1-4-2004).

^{4.} The Explanation numbered as Explanation 1 thereof by Act 4 of 1988, s. 15 (w.e.f. 1-4-1989).

^{5.} Ins. by Act 13 of 1989, s. 9 (w.e.f. 1-4-1984).

^{6.} Ins. by Act 4 of 1988, s. 15 (w.e.f 1-4-1989).

^{7.} Explanation 2 renumbered as Explanation 3 thereof by Act 13 of 1989, s. 9 (w.e.f. 1-4-1984).

^{8.} Ins. by Act 26 of 1988, s. 12 (w.e.f. 1-4-1989).

^{9.} Ins. by Act 33 of 1996, s. 18 (w.e.f. 1-4-1997).

^{10.}Ins. by Act 14 of 2001, s. 27 (w.e.f. 1-4-2002).

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

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

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

- (a) "public financial institutions" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- ⁴[(aa) "scheduled bank" shall have the meaning assigned to it in the *Explanation* to clause (iii) of sub-section (5) of section 11;]
- (b) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);
- (c) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and ⁵[eligible for deduction under clause (*viii*) of sub-section (*I*) of section 36].]
- ⁶[(d) "co-operative bank", primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P.]
- ⁷[43C. Special provision for computation of cost of acquisition of certain assets.—(1) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer by the amalgamating company.
- (2) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be.]

^{1.} Ins. by Act 21 of 2006, s. 12 (w.e.f. 1-4-1989).

^{2.} Ins. by s. 12, *ibid*. (w. e. f. 1-4-1997).

^{3.} Ins. by Act 12 of 1990, s. 13 (w.e.f. 1-4-1991).

^{4.} Subs. by Act 27 of 1999, s. 27 (w.e.f. 1-4-2000).

^{5.} Subs. by Act 10 of 2000, s. 20 (w.e.f. 1-4-2000).

^{6.} Ins. by Act 7 of 2017, s. 17 (w.e.f. 1-4-2018).

^{7.} Ins. by Act 26 of 1988, s. 13 (w.e.f. 1-4-1988).

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

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

- (2) The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (1).
- (3) Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (1) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.
- (4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received ³[by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account] on or before the date of agreement for transfer of the asset.]

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

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

- (i) with duration of not more than ninety days shall be determined on the basis of project completion method;
- (ii) involving indeterminate number of acts over a specific period of time shall be determined on the basis of straight line method.

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

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

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

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

- (2) For the purposes of percentage of completion method, project completion method or straight line method referred to in sub-section (1)—
 - (i) the contract revenue shall include retention money;
 - (ii) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.]

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

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

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

Explanation.—For the purposes of this section,—

- (a) "National Housing Bank" means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987);
 - (b) "public company" means a company,—
 - (i) which is a public company within the meaning of section 3 of the Companies Act, 1956 (1 of 1956);
 - (ii) whose main object is carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; and
 - (*iii*) which is registered in accordance with the Housing Finance Companies (NHB) Directions, 1989 given under section 30 and section 31 of the National Housing Bank Act, 1987 (53 of 1987);

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

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

- (c) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- (d) "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36;
- (e) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);
- (f) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects.]
- ¹[(g) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P.]
- **44. Insurance business.**—Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in ²[section 28 to 43B], the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.

³[44A. Special provision for deduction in the case of trade, professional or similar association.— (1) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or similar association (other than an association or institution referred to in clause (23A) of section 10) from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.

- (2) In computing the income of the association for the relevant assessment year under sub-section (1), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year.
- (3) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section.
- (4) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it.]

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

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

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

- ¹[44AA. Maintenance of accounts by certain persons carrying on profession or business.—(1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the ²[Assessing Officer] to compute his total income in accordance with the provisions of this Act.
- (2) Every person carrying on business or profession [not being a profession referred to in sub-section (I)] shall,—
 - (i) if his income from business or profession exceeds ³[one lakh twenty thousand] rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ⁴[ten lakh] rupees in any one of the three years immediately preceding the previous year; or
 - (*ii*) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed ³[one lakh twenty thousand] rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ⁴[ten lakh] rupees, ⁵[during such previous year; or
 - (*iii*) where the profits and gains from the business are deemed to be the profits and gains of the assessee under ⁶[section 44AE] ⁷[or section 44BB or section 44BBB], as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such ⁸[previous year; or]]
 - 9 [(*iv*) where the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,]

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

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

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

- (3) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1) or sub-section (2), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.
- (4) Without prejudice to the provisions of sub-section (3), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (1) or sub-section (2) shall be retained.]

^{1.} Ins. by Act 41 of 1975, s. 11 (w.e.f. 1-4-1976).

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

^{3.} Subs. by Act 21 of 1998, s. 20, for "forty thousand" (w.e.f. 1-4-1999).

^{4.} Subs. by s. 20, ibid., for "five hundred thousand" (w.e.f. 1-4-1999).

^{5.} Subs. by Act 26 of 1997, s. 10, for "during such previous year" (w.e.f. 1-4-1998).

^{6.} Subs. by Act 33 of 2009, s. 18, for "section 44AD or section 44AE or section 44AF" (w.e.f. 1-4-2011).

^{7.} Ins. by Act 32 of 2003, s. 22 (w.e.f. 1-4-2004).

^{8.} Subs. by Act 33 of 2009. S. 18, for "previous year" (w.e.f. 1-4-2011).

^{9.} Subs. by Act 28 of 2016, s. 24, for clause (iv) (w.e.f. 1-4-2017).

^{10.} Ins. by Act 7 of 2017, s. 19 (w.e.f. 1-4-2018).

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

- (a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds 2 [one crore rupees] in any previous year ${}^{3}***$; or
- (b) carrying on profession shall, if his gross receipts in profession exceed ⁴[fifty lakh rupees] in any ⁵[previous year; or
- (c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under ⁶[section 44AE] ⁷[or section 44BB or section 44BBB], as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any ⁸[previous year; or] ³***
- 9 [(*d*) carrying on the 10 [profession] shall, if the profits and gains from the 10 [profession] are deemed to be the profits and gains of such person 11 [under section 44ADA] and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his 10 [profession] and his income exceeds the maximum amount which is not chargeable to income-tax in any 12 [previous year; or]]
- 13 [(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,]

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

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

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

^{1.} Ins. by Act 21 of 1984, s. 11 (w.e.f. 1-4-1985).

^{2.} Subs. by Act 23 of 2012, s. 13, for "sixty lakh rupees" (w.e.f. 1-4-2013).

^{3.} The words and figures "or years relevant to the assessment year commencing on the first day of April, 1985, or any subsequent assessment year" omitted by Act 26 of 1988, s. 14 (w.e.f. 1-4-1989).

^{4.} Subs. by Act 28 of 2016, s. 25, for "twenty-five lakh rupees" (w.e.f. 1-4-2017).

^{5.} Subs. by Act 26 of 1997, s. 11, for "previous year" (w.e.f. 1-4-1998).

^{6.} Subs. by Act 33 of 2009, s. 19, for "section 44AD or section 44AE or section 44AF" (w.e.f. 1-4-2011).

^{7.} Ins. by Act 32 of 2003, s. 23 (w.e.f. 1-4-2004).

^{8.} Subs. by Act 33 of 2009, s. 19, for "previous year," (w.e.f. 1-4-2011).

^{9.} Ins. by s. 19, *ibid*. (w.e.f. 1-4-2011).

^{10.} Subs. by Act 28 of 2016, s. 25, for "Business" (w.e.f. 1-4-2017).

^{11.} Subs. by s. 25, *ibid.*, for "under section 44AD" (w.e.f. 1-4-2017).

^{12.} Subs. by s. 25, *ibid.*, for "previous year" (w.e.f. 1-4-2017).

^{13.} Ins. by s. 25, *ibid*. (w.e.f. 1-4-2017).

^{14.} Subs. by Act 26 of 1988, s. 14, for "such previous year or years" (w.e.f. 1-4-1989).

^{15.} Subs. by Act 22 of 1995, s. 13, for "obtain before" (w.e.f. 1-7-1995).

^{16.} Ins. by Act 7 of 2017, s. 20 (w.e.f. 1-4-2017).

^{17.} Subs. by Act 18 of 1992, s. 20, for "Provided that" (w.e.f. 1-4-1985).

^{18.} Subs. by Act 7 of 2017, s. 20, for "Provided that" (w.e.f. 1-4-2017).

^{19.} The words, figures and letters "section 44AC or" omitted by Act 22 of 1995, s. 13 (w.e.f. 1-7-1995).

^{20.} Subs. by Act 32 of 2003, s. 23, for "section 44BB or section 44BBA or section 44BBB" (w.e.f. 1-4-2004).

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

Explanation.—For the purposes of this section,—

- (i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;
- 5 [(ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means 6 [the due date for furnishing the return of income under sub-section (1) of section 139].]]
- **44AC.** [Special provision for computing profits and gains from the business of trading in certain goods.] *Omitted by the Finance Act*, 1992 (18 of 1992), s. 21 (w.e.f. 1-4-1993).
- ⁷[44AD. Special provision for computing profits and gains of business on presumptive basis.—(1) Notwithstanding anything to the contrary contained in sections 28 to 43C,in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

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

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

9* * * * *

- (3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- 10 [(4) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).

^{1.} Subs. by Act 7 of 2017, s. 20, for "Provided further" (w.e.f. 1-4-2017).

^{2.} The words "by an accountant" omitted by Act 32 of 1985, s. 13 (w.e.f. 1-4-1985).

^{3.} Subs. by Act 22 of 1995, s. 13, for "obtains before" (w.e.f. 1-7-1995).

^{4.} Ins. by Act 14 of 2001, s. 28 (w.e.f. 1-4-2001).

^{5.} Subs. by s. 28, *ibid.*, for clause (*ii*) (w.e.f. 1-4-2001).

^{6.} Subs. by Act 23 of 2012, s. 13, for "the 30th day of September of the assessment year" (w.e.f. 1-4-2012).

^{7.} Subs. by Act 33 of 2009, s. 20, for section 44AD (w.e.f. 1-4-2011).

^{8.} Ins. by Act 7 of 2017, s. 21 (w.e.f. 1-4-2017).

^{9.} The proviso omitted by Act 28 of 2016, s. 26 (w.e.f. 1-4-2017).

^{10.} Subs. by s. 26, *ibid.*, for sub-sections (4) and (5) (w.e.f. 1-4-2017).

- (5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.]
- ¹[(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—
 - (i) a person carrying on profession as referred to in sub-section (1) of section 44AA;
 - (ii) a person earning income in the nature of commission or brokerage; or
 - (iii) a person carrying on any agency business.]

Explanation.—For the purposes of this section,—

- (a) "eligibleassessee" means,—
- (i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and
- (ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BAor deduction under any provisions of Chapter VIA under the heading "C. Deductions in respect of certain incomes" in the relevant assessment year;
- (b) "eligible business" means,—
- (i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and
- (ii) whose total turnover or gross receipts in the previous year does not exceed an amount of 2 [two crore rupees].]

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

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

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

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

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

- (3) The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- (4) Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (1) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.]
- ¹[44AE. Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.—(1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, who owns not more than ten goods carriages ²[at any time during the previous year] and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).
 - ³[(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—
 - (i) being a heavy goods vehicle, shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;
 - (ii) other than heavy goods vehicle, shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.]
- (3) Any deduction allowable under the provisions of sections 30 to 38shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:
- ⁴[Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.]
- (4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- (5) The provisions of sections 44AA and 44ABshall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.
- ⁵[(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.]

^{1.} Ins. by Act 32 of 1994, s. 16 (w.e.f. 1-4-1994).

^{2.} Ins. by Act 32 of 2003, s. 24 (w.e.f. 1-4-2004).

^{3.} Subs. by Act 13 of 2018, s. 16, for sub-section (2) (w.e.f. 1-4-2019). Earlier it was substituted by Act 25 of 2014, s. 16 (w.e.f. 1-4-2015).

^{4.} Ins. by Act 26 of 1997, s. 13 (w.e.f. 1-4-1994).

^{5.} Ins. by Act 11 of 1999, s. 7 (w.e.f. 1-4-1997).

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

Explanation.—For the purposes of this section,—

- ²[(a) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988;
- (aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;"]
- (b) anassessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.]
- ³[44AF. Special provisions for computing profits and gains of retail business.—(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

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

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

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

- (3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- (4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.]
- ⁴[(5) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]
- ⁵[(6) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011.]

^{1.} Ins. by Act 27 of 1999, s. 30 (w.e.f. 1-4-1998).

^{2.} Subs. by Act 13 of 2018, s. 16, for clause (a) (w.e.f. 1-4-2019) which was earlier substituted by Act 25 of 2014, s. 16 (w.e.f. 1-4-2015).

^{3.} Ins. by Act 26 of 1997, s. 14 (w.e.f. 1-4-1998).

^{4.} Ins. by Act 27 of 1999, s. 31 (w.e.f. 1-4-1998).

^{5.} Ins. by Act 33 of 2009, s. 22 (w.e.f. 1-4-2009).

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

- (2) The amounts referred to in sub-section (1) shall be the following, namely:—
- (i) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and
- (ii) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.]

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

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

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

- (2) The amounts referred to in sub-section (1) shall be the following, namely:—
- (a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and
- (b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.
- ⁶[(3) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing

^{1.} Ins. by Act 25 of 1975, s. 8 (w.e.f. 1-4-1976).

^{2.} Ins. by Act 26 of 1997, s. 15 (w.e.f. 1-4-1976).

^{3.} Ins. by Act 11 of 1987, s. 11 (w.e.f. 1-4-1983).

^{4.} Subs. by Act 26 of 1988, s. 16, for "in the case of an assessee" (w.e.f. 1-4-1983).

^{5.} Ins. by Act 14 of 2010, s. 16 (w.e.f. 1-4-2011).

^{6.} Ins. by Act 32 of 2003, s. 25 (w.e.f. 1-4-2004).

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

Explanation.—For the purposes of this section,—

- (i) "plant" includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purposes of the said business;
 - (ii) "mineral oil" includes petroleum and natural gas.]

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

- (2) The amounts referred to in sub-section (1) shall be the following, namely:—
- (a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and
- (b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.]

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

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

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

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

6. Ins. by Act 66 of 1976, s. 10 (w.e.f. 1-6-1976).

^{1.} Ins. by Act 11 of 1987, s. 12 (w.e.f. 1-4-1988).

^{2.} Ins. by Act 13 of 1989, s. 10 (w.e.f. 1-4-1990).

^{3.} The existing section numbered as sub-section (1) thereof by Act 32 of 2003, s. 26 (w.e.f. 1-4-2004).

^{4.} The words "and financed under any international aid programme" omitted by s. 26, ibid. (w.e.f. 1-4-2004).

^{5.} Ins. by s. 26, *ibid*. (w.e.f. 1-4-2004).

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

whichever is the least:

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

Explanation.—For the purposes of this section,—

- (i) "adjusted total income" means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (2) of section 32or the deduction referred to in section 32Aor section 33or section 33A or the first proviso to clause (ix) of sub-section (1) of section 36 or any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or ²[sub-section (1) or sub-section (3) of section 74A or the deductions under Chapter VI-A;
 - (ii) "average adjusted total income" means,—
 - (a) in a case where the total income of the assessee is assessable for each of the three assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid three assessment years;
 - (b) in a case where the total income of the assessee is assessable only for two of the aforesaid three assessment years, one-half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;
 - (c) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;

 $^{3} imes$ * * * *

- (*iv*) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—
 - (a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;
 - (b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;
 - (c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and
 - (d) such other matters connected with executive and general administration as may be prescribed.]

^{1.} Clause (b) omitted by Act 38 of 1993, s. 11 (w.e.f. 1-4-1993).

^{2.} Subs. by Act 11 of 1987, s. 74, for "sub-section (1) of section 74" (w.e.f. 1-4-1988).

^{3.} Clause (iii) omitted by Act 38 of 1993, s. 11 (w.e.f. 1-4-1993).

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

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

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

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Explanation.—For the purposes of this section,—

- (a) "fees for technical services" shall have the same meaning as in ${}^{5}[Explanation 2 \text{ to clause } (vii) \text{ of sub-section } (1) \text{ of section } 9]$;
 - (b) "foreign company" shall have the same meaning as in section 80B;
- (c) "royalty" shall have the same meaning as in $^{6}[Explanation 2 \text{ to clause } (vi) \text{ of sub-section } (1) \text{ of section } 9];$

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

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

^{1.} Ins. by Act 66 of 1976, s. 10 (w.e.f. 1-6-1976).

^{2.} Subs. by Act 11 of 1983, s. 19, for certain words (w.e.f. 1-6-1983).

^{3.} Ins. by Act 32 of 2003, s. 27 (w.e.f. 1-4-2004).

^{4.} Clause (c) and (d) omitted by Act 32 of 1994, s. 17 (w.e.f. 1-4-1995).

^{5.} Subs. by Act 29 of 1977, s. 29, for "the Explanation to, clause (vii) of sub-section (1) of section 9" (w.e.f. 1-4-1977).

^{6.} Subs. by s. 29, *ibid.*, for "the *Explanation* to clause (vi) of sub-section (1) of section 9" (w.e.f 1-4-1977).

^{7.} Ins. by Act 32 of 2003, s. 28 (w.e.f 1-4-2004).

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

Provided that no deduction shall be allowed,—

- (i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or
- (*ii*) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices:

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

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

Explanation.—For the purposes of this section,—

- (a) "fees for technical services" shall have the same meaning as in *Explanation* 2 to clause (vii) of sub-section (1) of section 9;
- (b) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;
 - (c) "permanent establishment" shall have the same meaning as in clause (iiia) of section 92F.]

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

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

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

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

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

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

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^{1.} Ins. by Act 14 of 2010, s. 17 (w.e.f. 1-4-2011).

^{2.} Ins. by Act 22 of 2007, s. 15 (w.e.f. 1-4-2008).

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

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

- where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;
 - B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and
 - C = the total number of days in the financial year in which the business reorganisation has taken place.
- (4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank on account of business reorganisation, apply to the successor co-operative bank in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.
 - (5) For the purposes of this section,—
 - (a) "amalgamated co-operative bank" means—
 - (i) a co-operative bank with which one or more amalgamating co-operative banks merge; or
 - (ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;
 - (b) "amalgamating co-operative bank" means—
 - (i) a co-operative bank which merges with another co-operative bank; or
 - (ii) every co-operative bank merging to form a new co-operative bank;
 - (c) "amalgamation" means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that—
 - (i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;
 - (ii) the members holding seventy-five per cent or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

- (*iii*) the shareholders holding seventy-five per cent or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;
- (d) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank;
- (e) "co-operative bank" shall have the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (f) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—
 - (i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;
 - (ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;
 - (iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;
 - (*iv*) the shareholders holding seventy-five per cent or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;
 - (v) the transfer of the undertaking is on a going concern basis; and
 - (vi) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;
- (g) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;
- (h) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, as the case may be;
- (i) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;
 - (j) "resulting co-operative bank" means—
 - (i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or
 - (ii) any co-operative bank formed as a result of demerger.]

E. — Capital gains

- **45. Capital gains.** ¹[(1)] Any profits or gains arising from the transfer of a capital asset effected in previous year shall, save as otherwise provided in ²[sections ³*** 54, ⁴*** ⁵[54B, ⁶[54D, ⁷[54E, ⁸[54EA, 54EB,] 54F, ⁹[54G and 54H]]]]], be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.
- ¹⁰[(1A) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—
 - (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
 - (ii) riot or civil disturbance; or
 - (iii) accidental fire or explosion; or
 - (iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

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

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

- ¹¹[(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.]
- ¹²[(2A) Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as

^{1.} Sub-section (I) renumbered as sub-section (I) thereof by Act 5 of 1964, s. 12 (w.e.f. 1-4-1964).

^{2.} Subs. by Act 19 of 1970, s. 11, for "sections 53 and 54" (w.e.f. 1-4-1970).

^{3.} The figures "53," omitted by Act 18 of 1992, s. 22 (w.e.f. 1-4-1993).

^{4.} The figures and letter "54C" omitted by Act 66 of 1976, s. 26 (w.e.f. 1-4-1976).

^{5.} Subs. by Act 29 of 1977, s. 29, for "54B and 54D" (w.e.f. 1-4-1978).

^{6.} Subs. by Act 14 of 1982, s. 32 for "54D and 54E" (w.e.f. 1-4-1983)

^{7.} Subs. by Act 11 of 1987, s. 13, for "54E and 54F (w.e.f. 1-10-1987).

^{8.} Subs. by Act 33 of 1996, s. 19, for "54E" (w.e.f. 1-10-1996).

^{9.} Subs. by Act 49 of 1991, s. 17, for "and 54G" (w.e.f. 1-4-1991).

^{10.} Ins. by Act 27 of 1999, s. 32 (w.e.f. 1-4-2000).

^{11.} Ins. by Act 67 of 1984, s. 12 (w.e.f. 1-4-1985).

^{12.} Ins. by Act 22 of 1996, s. 30 and the Schedule (w.e.f. 20-9-1995).

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

- (i) section 48; and
- (ii) proviso to clause (42A) of section 2,

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

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

- ¹[(3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.
- (4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.]
- (5) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain shall be dealt with in the following manner, namely:—
 - (a) the capital gain computed with reference to the compensation awarded in the first instance or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as ²[income under the head "Capital gains" of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received]; and
 - (b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee:

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

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^{1.} Ins. by Act 11 of 1987, s. 13 (w.e.f. 1-4-1988).

^{2.} Subs. by Act 49 of 1991, s. 17, for "income under the head "Capital gains" of the previous year in which the transfer took place" (w.e.f. 1-4-1988).

^{3.} Ins. by Act 25 of 2014, s. 17 (w.e.f. 1-4-2015).

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

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

- (i) in relation to the amount referred to in clause (b), the cost of acquisition and the cost of improvement shall be taken to be nil;
- (ii) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;
- (iii) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (b) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.
- ²[(5A) Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

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

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

- (i) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;
- (ii) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;
- (iii) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.'.]
- ³[(6) Notwithstanding anything contained in sub-section (1), the difference between the repurchase price of the units referred to in sub-section (2) of section 80CCB and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the previous year in which such repurchase takes place or the plan referred to in that section is terminated and shall be taxed accordingly.

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

2. Ins. by Act 7 of 2017, s. 22 (w.e.f 1-4-2018).

^{1.} Ins. by Act 32 of 2003, s. 29 (w.e.f. 1-4-2004).

^{3.} Ins. by Act 12 of 1990, s. 15 (w.e.f. 1-4-1991).

- **46.** Capital gains on distribution of assets by companies in liquidation.—(1) Notwithstanding anything contained in section, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.
- (2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.
- ¹[46A. Capital gains on purchase by company of its own shares or other specified securities.— Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

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

- **47. Transactions not regarded as transfer**.—Nothing contained in section 45 shall apply to the following transfers:—
 - (i) any distribution of capital assets on the total or partial partition of a Hindu undivided family;

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

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

- (iv) any transfer of a capital asset by a company to its subsidiary company, if—
- (a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
 - (b) the subsidiary company is an Indian company;
- $^{5}[(v)]$ any transfer of a capital asset by a subsidiary company to the holding company, if—
- (a) the whole of the share capital of the subsidiary company is held by the holding company, and
 - (b) the holding company is an Indian company:]

^{1.} Ins. by Act 27 of 1999, s. 33 (w.e.f. 1-4-2000).

^{2.} Clause (ii) omitted by Act 11 of 1987, s. 14 (w.e.f. 1-4-1988).

^{3.} Ins. by Act 10 of 2000, s. 21 (w.e.f. 1-4-2001).

^{4.} Subs. by Act 14 of 2001, s. 29, for "the Employees' Stock option Plan or Scheme" (w.e.f. 1-4-2001).

^{5.} Ins. by Act 10 of 1965, s. 15 (w.e.f. 1-4-1965).

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

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

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

- (a) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and
- (b) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;]

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

Explanation.—For the purposes of this clause,—

- (i) "banking company" shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (ii) "banking institution" shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);]

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

- (A) at least twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and
- (B) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;]

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

- (vic) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—
 - (a) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

2. Ins. by Act 20 of 1967, s. 19 (w.e.f. 1-4-1967).

^{1.} Ins. by Act 26 of 1988, s. 17 (w.e.f. 1-4-1988).

^{3.} Ins. by Act 18 of 1992, s. 23 (w.e.f. 1-4-1993).

^{4.} Ins. by Act 18 of 2005, s. 15 (w.e.f. 1-4-2005).

^{5.} Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).

^{6.} Ins. by Act 27 of 1999, s. 34 (w.e.f. 1-4-2000).

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

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

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

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

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

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

- (a) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and
- (b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

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

- (vid) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;]
- (vii) any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—
 - (a) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder itself is the amalgamated company, and
 - (b) the amalgamated company is an Indian company;

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

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

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

- (a) bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or
- (b) rupee denominated bond of an Indian company; or
- (c) derivative,

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

^{1.} Ins. by Act 22 of 2007, s. 16 (w.e.f. 1-4-2008).

^{2.} Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).

^{3.} Ins. by Act 18 of 1992, s. 23 (w.e.f. 1-6-1992).

^{4.} Subs. by Act 14 of 2001, s. 29, for "shares" (w.e.f. 1-4-2002).

^{5.} Ins. by Act 7 of 2017, s. 23 (w.e.f. 1-4-2018).

^{6.} Ins. by Act 13 of 2018, s. 17 (w.e.f. 1-4-2019).

Explanation.—For the purposes of this clause,—

- (a) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;
- (b) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43;
- (c) "derivative" shall have the meaning assigned to it in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

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

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

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

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

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

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

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

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

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

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

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

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

^{1.} Ins. by Act 25 of 2014, s. 18 (w.e.f. 1-4-2015).

^{2.} Ins. by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).

^{3.} Ins. by Act 19 of 1970, s. 11 (w.e.f. 1-4-1970).

^{4.} Ins. by Act 66 of 1976, s. 11 (w.e.f. 1-4-1977).

^{5.} Ins. by Act 49 of 1991, s. 18 (w.e.f. 1-4-1962).

^{6.} Subs. by Act 18 of 1992, s. 23 for "conversion of debentures" (w.e.f. 1-4-1962).

^{7.} Ins. by Act 18 of 2008, s. 14 (w.e.f. 1-4-2008).

^{8.} Ins. by Act 7 of 2017, s. 23 (w.e.f. 1-4-2018).

^{9.} Ins. by Act 26 of 1997, s. 16 (w.e.f. 1-4-1998).

^{10.} Subs. by Act 21 of 1998, s. 21 for "31st day of December, 1997" (w.e.f. 1-4-1998).

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

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

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

Provided that—

- (a) all the assets and liabilities of the firm or of the association of persons or body of individuals relating to the business immediately before the succession become the assets and liabilities of the company;
- (b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;
- (c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and
- (d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;
- ⁴[(*e*) the ³[demutualisation or corporatisation] of a recognised stock exchange in India is carried out in accordance with a scheme for ³[demutualisation or corporatisation] which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

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

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

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

^{2.} Subs. by Act 14 of 2001, s. 29, for certain words (w.e.f. 1-4-2002).

^{3.} Subs. by Act 32 of 2003, s. 30, for "corporatisation" (w.e.f. 1-4-2004).

^{4.} Ins. by Act 14 of 2001, s. 29 (w.e.f. 1-4-2002).

^{5.} Ins. by Act 32 of 2003, s. 30 (w.e.f. 1-4-2004).

^{6.} Ins. by Act 14 of 2010, s. 18 (w.e.f. 1-4-2011).

Provided that—

- (a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;
- (b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;
- (c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;
- (d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;
- (e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; 1***
- ²[(*ea*) the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed five crore rupees; and]
- (f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

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

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

Provided that—

- (a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;
- (b) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and
- (c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

^{1.} The word "and" omitted by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).

^{2.} Ins. by s. 28, *ibid*. (w.e.f. 1-4-2017).

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

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

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

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

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

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

Explanation.—For the purposes of this clause,—

- (a) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;
- (b) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) "equity oriented fund" shall have the meaning assigned to it in clause (38) of section 10;
 - (d) "mutual fund" means a mutual fund specified under clause (23D) of section 10.]

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

Explanation.—For the purposes of this clause,—

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

^{1.} Ins. by Act 20 of 2002, s. 23 (w.e.f. 1-4-2003).

^{2.} Ins. by Act 18 of 2008, s. 14 (w.e.f. 1-4-2008).

^{3.} Ins. by Act 25 of 2014, s. 18 (w.e.f. 1-4-2015).

^{4.} Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).

^{5.} Ins. by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).

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

- (b) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger;
 - (c) "mutual fund" means a mutual fund specified under clause (23D) of section 10.]
- ¹[47A. Withdrawal of exemption in certain cases.—(1) Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 147,—
 - (i) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or
 - (ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

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

- 2 [(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (xi) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (xi) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.]
- 3 [(3) Where any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (xiii) or the proviso to clause (xiv), as the case may be, are not complied with.]
- ⁴[(4) Where any of the conditions laid down in the proviso to clause (*xiiib*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.]

2. Ins. by Act 26 of 1997, s. 17 (w.e.f. 1-4-1998).

^{1.} Ins. by Act 67 of 1984, s. 13 (w.e.f. 1-4-1985).

^{3.} Ins.by Act 21 of 1998, s. 22 (w.e.f. 1-4-1999).

^{4.} Ins. by Act 14 of 2010, s. 19 (w.e.f. 1-4-2011).

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

- (i) expenditure incurred wholly and exclusively in connection with such transfer;
- (ii) the cost of acquisition of the asset and the cost of any improvement thereto:

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

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

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

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

- (a) capital indexed bonds issued by the Government; or
- (b) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015:

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

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

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

^{1.} Subs. by Act 18 of 1992, s. 24, for section 48 (w.e.f. 1-4-1993).

^{2.} Ins. by Act 13 of 2018, s. 18 (w.e.f. 1-4-2018).

^{3.} Subs. by Act 28 of 2016, s. 29, for the third proviso (w.e.f. 1-4-2017) which was earlier inserted by Act 26 of 1997, s. 18 (w.e.f. 1-4-1998).

^{4.} Subs. by Act 7 of 2017, s. 24 to read as "subscribed" (w.e.f. 1-4-2018).

^{5.} Ins. by Act 10 of 2000, s. 22 (w.e.f. 1-4-2001).

^{6.} Ins. by Act 23 of 2004, s. 12 (w.e.f. 1-4-2005).

Explanation.—For the purposes of this section,—

- (i) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of ¹[the Foreign Exchange Management Act, 1999 (42 of 1999);]
- (ii) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;
- (iii) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the ²[1st day of April, 2001,] whichever is later;
- (*iv*) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;
- 3 [(ν) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the 4 [Consumer Price Index (urban)] for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify, in this behalf.]]
- **49. Cost with reference to certain modes of acquisition.**— $^{5}[(1)]$ Where the capital asset became the property of the assessee—
 - (i) on any distribution of assets on the total or partial partition of a Hindu undivided family;
 - (ii) under a gift or will;
 - (iii) (a) by succession, inheritance or devolution, or
 - ⁶[(b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or]
 - (c) on any distribution of assets on the liquidation of a company, or
 - (d) under a transfer to a revocable or an irrevocable trust, or
 - (e) under any such transfer as is referred to in clause (iv) 7 [or clause (v)] 8 [or clause (vii)] 9 [or clause (via)] 10 [or clause (viaa) or clause (viab) or clause (vib) 11 [or clause (vic)] or clause (vica) or clause (vicb) or clause (vicb) or clause (vici) or clause (xiii) or clause (xiii) or clause (xiv) of section 47];
 - 13 [(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,]

^{1.} Subs. by Act 17 of 2013, s. 4, for "the Foreign Exchange Regulation Act, 1973 (46 of 1973)" (w.e.f. 1-4-2013).

^{2.} Subs. by Act 7 of 2017, s. 24 for "1st day of April, 1981" (w.e.f. 1-4-2018).

^{3.} Subs. by Act 10 of 2000, s. 22, for clause (*v*) (w.e.f. 1-4-1993).

^{4.} Subs. by Act 25 of 2014, s. 19, for "Consumer Price Index for Urban non-manual employees" (w.e.f. 1-4-2016).

^{5.} Section 49 re-numbered as sub-section (1) thereof by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).

^{6.} Subs. by Act 11 of 1987, s. 16, for sub-clause (b) (w.e.f. 1-4-1988).

^{7.} Ins. by Act 10 of 1965, s. 16 (w.e.f. 1-4-1965).

^{8.} Ins. by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).

^{9.} Ins. by Act 18 of 1992, s. 25 (w.e.f. 1-4-1993).

^{10.} Subs. by Act 20 of 2015, s. 15, for "or clause (viaa) or clause (vica) or clause (vicb)" (w.e.f. 1-4-2016).

^{11.} Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).

^{12.} Subs. by Act 23 of 2012, s. 16, for "clause (xiiib) of section 47" (w.e.f. 1-4-1999).

^{13.} Ins. by Act 41 of 1975, s. 12 (w.e.f. 1-4-1976).

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

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

- ⁴[(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.]
- $^{5}[(2A)]$ Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the assest to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.]
- 6 [(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.]
- ⁷[(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), became the property of the assessee on conversion as referred to in clause (*xiiib*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.]
- $^{8}[(2AB)]$ Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (I) of section 115WC.]

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

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

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

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

^{1.} Ins. by Act 10 of 1965, s. 16 (w.e.f. 1-4-1965).

^{2.} Subs. by Act 20 of 1967, s. 20, for "section" (w.e.f. 1-4-1967).

^{3.} Subs. by Act 41 of 1975, s. 12, for "clause (ii) or clause (iii)" (w.e.f. 1-4-1976).

^{4.} Ins. by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).

^{5.} Subs. by Act 18 of 2008, s. 15, for sub-section (2A) (w.e.f. 1-4-2008).

^{6.} Subs. by Act 33 of 2009, s. 23, for sub-section (2AA) (w.e.f. 1-4-2010).

^{7.} Ins. by Act 14 of 2010, s. 20 (w.e.f. 1-4-2011).

^{8.} Ins. by Act 22 of 2007, s. 17 (w.e.f 1-4-2008).

^{9.} Ins. by Act 20 of 2015, s. 15 (w.e.f. 1-4-2015).

^{10.} Ins. by Act 25 of 2014, s. 20 (w.e.f. 1-4-2015).

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

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

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

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

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

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

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

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

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

^{1.} Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).

^{2.} Ins. by s. 25, *ibid*. (w.e.f. 1-4-2017).

^{3.} Sub-section (2B) omitted by Act 10 of 2000, s. 23 (w.e.f. 1-4-2000).

^{4.} Ins. by Act 27 of 1999, s. 35 (w.e.f. 1-4-2000).

^{5.} Ins. by Act 22 of 2007, s. 17 (w.e.f. 1-4-2008).

^{6.} Ins. by Act 67 of 1984, s. 14 (w.e.f. 1-4-1985).

^{7.} Ins. by Act 33 of 2009, s. 23 (w.e.f. 1-10-2009).

^{8.} Ins. by Act 14 of 2010, s. 20 (w.e.f. 1-6-2010).

^{9.} Ins. by Act 28 of 2016, s. 30 (w.e.f. 1-4-2017).

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

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

- (7) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (5A) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section;
- ²[(8) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.".]
- ³[(9) Where the capital gain arises from the transfer of a capital asset referred to in clause (*via*) of section 28, the cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of the said clause.]
- ⁴[50. Special provision for computation of capital gains in case of depreciable assets.— Notwithstanding anything contained in clause (42A) of section 2, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), the provisions of sections 48 and 49 shall be subject to the following modifications:—
 - (1) where the full value of the consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received or accruing as a result of the transfer of any other capital asset falling within the block of the assets during the previous year, exceeds the aggregate of the following amounts, namely:—
 - (i) expenditure incurred wholly and exclusively in connection with such transfer or transfers;
 - (ii) the written down value of the block of assets at the beginning of the previous year; and
 - (iii) the actual cost of any asset falling within the block of assets acquired during the previous year,

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

- (2) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets.]
- ⁵[50A. Special provision for cost of acquisition in case of depreciable asset.—Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (I) of section 32 has been obtained by the assessee in any previous year, the provisions of section 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.]

3. Ins. by Act 13 of 2018, s. 19 (w.e.f. 1-4-2019).

^{1.} Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).

^{2.} Ins. by s. 25, ibid. (w.e.f. 1-6-2016).

^{4.} Subs. by Act 46 of 1986, s. 9, for section 50 (w.e.f. 1-4-1988).

^{5.} Ins. by Act 21 of 1998, s. 23 (w.e.f. 1-4-1998).

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

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

- (2) In relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of section 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.
- (3) Every assessee, in the case of slump sale, shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288, indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

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

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

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

- (a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of sub-clause (c) of clause (6) of section 43; 3***
- 4 [(b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, nil; and
 - (c) in the case of other assets, the book value of such assets.]]]
- ⁵[50C. Special provision for full value of consideration in certain cases.—(1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted ⁶[or assessed or assessable] by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted ⁶[or assessed or assessable] shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.]

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

^{1.} Ins. by Act 27 of 1999, s. 36 (w.e.f. 1-4-2000).

^{2.} Subs. by Act 10 of 2000, s. 24, for the *Explanation* (w.e.f. 1-4-2000).

^{3.} The word "and" omitted by Act 33 of 2009, s. 24 (w.e.f. 1-4-2010).

^{4.} Subs. by s. 24, *ibid.*, for clause (b) (w.e.f. 1-4-2010).

^{5.} Ins. by Act 20 of 2002, s. 24 (w.e.f. 1-4-2003).

^{6.} Subs. by Act 33 of 2009, s. 25, for "or assessed" (w.e.f. 1-10-2009).

^{7.} Ins. by Act 28 of 2016, s. 31 (w.e.f. 1-4-2017).

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

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

- (2) Without prejudice to the provisions of sub-section (1), where—
- (a) the assessee claims before any Assessing Officer that the value adopted 2 [or assessed or assessable] by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;
- (b) the value so adopted ²[or assessed or assessable] by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

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

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

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

- (3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted 2 [or assessed or assessable] by the stamp valuation authority referred to in sub-section (1), the value so adopted 2 [or assessed or assessable] by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.]
- ⁵[50CA. Special provision for full value of consideration for transfer of share other than quoted share.—(1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

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

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

^{1.} Ins. by Act 13 of 2018, s. 20 (w.e.f. 1-4-2019).

^{2.} Subs. by Act 33 of 2009, s. 25, for "or assessed" (w.e.f. 1-10-2009).

^{3.} The Explanation renumbered as Explanation 1 thereof by s. 25, ibid. (w.e.f. 1-10-2009).

^{4.} Ins. by s. 25, *ibid*. (w.e.f. 1-10-2009).

^{5.} Ins. by Act 7 of 2017, s. 26 (w.e.f. 1-4-2018).

^{6.} Ins. by Act 23 of 2012, s. 17 (w.e.f. 1-4-2013).

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

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

- **52.** [Consideration for transfer in cases of understatement.]—Omitted by the Finance Act, 1987 (11 of 1987), s. 17 (w.e.f. 1-4-1988). Earlier amended by Act 5 of 1964, s. 13 (w.e.f. 1-4-1964), Act 25 of 1975, s. 9 (w.e.f. 1-4-1974) and Act 19 of 1978, s. 9 (w.e.f. 1-4-1974).
- **53.** [Exemption of capital gains from a residential house.]—Omitted by the Finance Act, 1992 (18 of 1992), s. 26 (w.e.f. 1-4-1993). Earlier substituted by Act 67 of 1984, s. 15 (w.e.f. 1-4-1985) and amended by Act 11 of 1987, s. 18 (w.e.f. 1-4-1988).
- **54. Profit on sale of property used for residence**.—²[(1)] ³[⁴[Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family], the capital gain arises from the transfer of a long-term capital asset ⁵***, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of ⁶[one year before or two years after the date on which the transfer took place purchased], or has within a period of three years after that date ⁷[constructed, one residential house in India], then], instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—
 - (*i*) if the amount of the capital gain ⁸[is greater than the cost of ⁹[the residential house] so purchased or constructed (hereafter in this section referred to as the new asset)], the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or
 - (ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

^{1.} Ins. by Act 25 of 2014, s. 21 (w.e.f. 1-4-2015).

^{2.} Section 54 renumbered as sub-section (1) thereof by Act 19 of 1978, s. 10 (w.e.f. 1-4-1974).

^{3.} Subs. by Act 14 of 1982, s. 11, for certain words (w.e.f. 1-4-1983).

^{4.} Subs. by Act 11 of 1987, s. 19, for "Where, in the case of an assessee being an individual" (w.e.f. 1-4-1988).

^{5.} The words and figures "to which the provisions of section 53 are not applicable" omitted by Act 32 of 1985, s. 14 (w.e.f. 1-4-1985).

^{6.} Subs. by Act 23 of 1986, s. 11, for "one year before or after the date on which the transfer took place purchased" (w.e.f. 1-4-1987).

^{7.} Subs. by Act 25 of 2014, s. 22, for "constructed, a residential house" (w.e.f. 1-4-2015).

^{8.} Subs. by Act 19 of 1978, s. 10, for "is greater than the cost of the new asset" (w.e.f. 1-4-1974).

^{9.} Subs. by Act 14 of 1982, s. 11, for "the house property" (w.e.f. 1-4-1983).

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

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

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

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

- (i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and
- (ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

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

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

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

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

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

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

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

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

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

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

- (i) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be nil; or
- (*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced, by the amount of the capital gain.]
- ³[(2) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

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

- (i) the amount not so utilised shall be charged under section 45as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and
- (ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

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

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

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

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

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

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

- (i) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or
- (ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.]
- ⁵[(2) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*I*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (*I*), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

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

- (i) the amount not so utilised shall be charged under section 45as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and
- (ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

6* * * * * *

^{1.} Ins. by Act 21 of 1973, s. 7 (w.e.f. 1-4-1974).

^{2.} Section 54D numbered as sub-section (1) thereof by Act 19 of 1978, s. 12 (w.e.f. 1-4-1974).

^{3.} Subs. by Act 11 of 1987, s. 21, for "Where the capital gain arises" (w.e.f. 1-4-1988).

⁴ Ins. by Act 19 of 1978, s. 12 (w.e.f. 1-4-1974).

^{5.} Subs. by Act 11 of 1987, s. 21, for sub-section (2) (w.e.f. 1-4-1988).

^{6.} The Explanation omitted by Act 18 of 1992, s. 29 (w.e.f. 1-4-1993).

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

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

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

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

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

- (a) in a case where the original asset is transferred before the 1st day of March, 1979, any of the following assets, namely:—]
 - (i) securities of the Central Government or a State Government;
 - (ii) savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959);
 - (iii) units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

^{1.} Ins. by Act 29 of 1977, s. 13 (w.e.f. 1-4-1978).

^{2.} Subs. by Act 11 of 1987, s. 22, for "capital asset, not being a short-term capital asset" (w.e.f. 1-4-1988).

^{3.} Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).

^{4.} Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of such transfer" (w.e.f. 1-4-1979).

^{5.} Subs. by s. 8, *ibid.*, for "full value of consideration received or accruing" (w.e.f. 1-4-1979).

^{6.} Subs. by s. 8, ibid., for "full value of such consideration" (w.e.f. 1-4-1979).

^{7.} Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).

^{8.} Ins. by Act 67 of 1984, s. 16 (w.e.f. 1-4-1984).

^{9.} Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).

^{10.} Subs. by Act 21 of 1979, s. 8, for 'For the purposes of this sub-section and sub-section (3), "specified asset" means any of the following assets, namely:—'(w.e.f. 1-4-1979).

- (iv) debentures specified by the Central Government for the purposes of clause (ii) of sub-section (1) of section 80L;
- (ν) shares in any Indian company which are issued to the public or are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder, where the investment in such shares is made before the 1st day of March, 1978;
- ¹[(va) equity shares forming part of any eligible issue of capital, where the investment in such shares is made after the 28th day of February, 1978;]
- (vi) deposits for a period of not less than three years with the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any nationalised bank, that is to say, any corresponding new bank, constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);
- ²[(*b*) in a case where the original asset is transferred after the 28th day of February, 1979 ³[but before the 1st day of March, 1983], such National Rural Development Bonds as the Central Government may notify in this behalf in the Official Gazette;]
- ³[(c) in a case where the original asset is transferred after the 28th day of February, 1983 ⁴[but before the 1st day of April, 1986], any of the following assets, namely:—
 - (i) securities of the Central Government which that Government may, by notification in the Official Gazette, specify in this behalf;
 - (*ii*) special series of units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), which the Central Government may, by notification in the Official Gazette, specify in this behalf;
 - (iii) such National Rural Development Bonds as have been notified under clause (b) of Explanation 1 or as may be notified in this behalf under this clause by the Central Government;
 - (*iv*) such debentures issued by the Housing and Urban Development Corporation Limited [a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)], as the Central Government may, by notification in the Official Gazette, specify in this behalf;]
- ⁴[(d) in a case where the original asset is transferred after the 31st day of March, 1986, any of the assets specified in clause (c) and such bonds issued by any public sector company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

^{1.} Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).

^{2.} Ins. by Act 21 of 1979, s. 8 (w.e.f. 1-4-1979).

^{3.} Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).

^{4.} Ins. by Act 23 of 1986, s. 12 (w.e.f. 1-4-1987).

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

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

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

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

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

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

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

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

^{1.} The Explanation omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1987).

^{2.} Ins. by Act 13 of 1989, s. 12 (w.e.f. 1-4-1990).

^{3.} Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).

^{4.} Subs. by Act 21 of 1979, s. 8, for "the full value of the consideration or any part thereof in any equity shares referred to in clause (*va*)" (w.e.f. 1-4-1979).

^{5.} Explanation 2 renumbered as Explanation 4 by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).

^{6.} Subs. by Act 21 of 1979, s. 8, for "clause (vi)" (w.e.f. 1-4-1979).

^{7.} Ins. by s. 8, *ibid*. (w.e.f. 1-4-1979).

^{8.} Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).

^{9.} Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of the transfer" (w.e.f. 1-4-1979).

^{10.} Subs. by s. 8, *ibid.*, for "referred to in clause (*vi*)" (w.e.f. 1-4-1979).

^{11.} Subs. by s. 8, *ibid.*, for "said clause (vi)" (w.e.f. 1-4-1979).

^{12.} Subs. by Act 4 of 1988, s. 2, "Income-tax Officer" (w.e.f. 1-4-1988).

- (1B) Where on the fulfilment of the conditions specified in sub-section (1A), the cost of the new asset referred to in that sub-section is taken into account for the purposes of sub-section (1), the assessee shall, within a period of ninety days from the expiry of the period of three years reckoned from the date of such deposit, furnish to the 1 [Assessing Officer] a certificate from the officer referred to in clause (b) of sub-section (1A) to the effect that the assessee has not taken any loan or advance on the security of such deposit during the said period of three years.]
- $^{2}[(1C)]$ Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assessee had received any amount by way of advance on or before the 29th day of February, 1992 and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then, the provisions of clauses (a) and (b) of sub-section (1) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section.]
- (2) Where the new asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to 3 [long-term capital assets] of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.]

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

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

⁹* * * * *

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

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

^{2.} Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).

^{3.} Subs. by Act 11 of 1987, s. 22, for "capital assets other than short-term capital assets" (w.e.f. 1-4-1988).

^{4.} Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).

^{5.} The Explanation numbered as Explanation 1 by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).

^{6.} Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of the transfer" (w.e.f. 1-4-1979).

^{7.} Subs. by s. 8, ibid., for "clause (vi)" (w.e.f. 1-4-1979).

^{8.} Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).

^{9.} Sub-sections (3), (4) and (5) omitted by Act 11 of 1987, s. 22 (w.e.f. 1-4-1988).

^{10.} Sub-section (6) renumbered as sub-section (3) by s. 22, ibid. (w.e.f. 1-4-1988).

^{11.} Subs. by Act 21 of 1979, s. 8, for "clause (va)" (w.e.f. 1-4-1979).

^{12.} The words, brackets, letters and figure "or clause (a) or clause (b) of sub-section (3)" omitted by Act 11 of 1987, s. 22 (w.e.f. 1-4-1988).

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

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

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

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

Explanation.—For the purposes of this section,—

- (a) "cost", in relation to any ²[specified securities], means the amount invested in such ²[specified securities] out of the net consideration received or accruing as a result of the transfer of the original asset;
- (b) "net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by the expenditure incurred wholly and exclusively in connection with such transfer.]

^{1.} Ins. by Act 33 of 1996, s. 20 (w.e.f. 1-10-1996).

^{2.} Subs. by Act 14 of 1997, s. 2, for "specified bonds or debentures" (w.e.f. 1-10-1996).

^{3.} Ins. by Act 10 of 2000, s. 25 (w.e.f. 1-4-2001).

^{4.} Subs. by Act 14 of 1997, s. 2, for "bonds, debentures or units of any mutual fund referred to in clause (23D) of section 10" (w.e.f. 1-10-1996).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- $^{4}[(3)]$ Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—
 - (a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;
 - (b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]

Explanation.—For the purposes of this section,—

- (a) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;
- ⁵[(b) "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March, 2007,—

^{1.} Ins. by Act 22 of 2007, s. 18 (w.e.f. 1-4-2007).

^{2.} Ins. by Act 25 of 2014, s. 23 (w.e.f. 1-4-2015).

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

^{4.} Ins. by Act 18 of 2005, s. 17 (w.e.f. 1-4-2006).

^{5.} Subs. by Act 22 of 2007, s. 18, for clause (b) (w.e.f. 1-4-2006).

- (i) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988); or
- (ii) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956),

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

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

- ²[(ba) "long-term specified asset" for making any investment under this section,—
- (i) on or after the 1st day of April, 2007 but before the 1st day of April, 2018, means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 but before the 1st day of April, 2018;
- (ii) on or after the 1st day of April, 2018, means any bond, redeemable after five years and issued on or after the 1st day of April, 2018, by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 or any other bond notified in the Official Gazette by the Central Government in this behalf.]

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

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

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

- (i) "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:—
 - (a) the issue is made by a public company formed and registered in India;
 - (b) the shares forming part of the issue are offered for subscription to the public;

^{1.} Ins. by Act 22 of 2007, s. 18 (w.e.f. 1-4-2006).

[•]

^{2.} Subs. by Act 13 of 2018, s. 21, for clause (*ba*) (w.e.f. 1-4-2019) which was earlier inserted by Act 22 of 2007, s. 18 (w.e.f. 1-4-2006) and later amended by Act 7 of 2017, s. 27 (w.e.f. 1-4-2018).

^{3.} Ins. by Act 14 of 2001, s. 32 (w.e.f. 1-4-2002).

^{4.} Subs. by Act 21 of 2006, s. 14, for "from the transfer of a long-term capital asset" (w.e.f. 1-4-2007).

- (ii) "listed securities" shall have the same meaning as in clause (a) of the Explanation to sub-section (1) of section 112;
- (iii) "unit" shall have the meaning assigned to it in clause (b) of the Explanation to section 115AB.
- (2) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.
- $^{1}[(3)]$ Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—
 - (a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;
 - (b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]]
- ²[54EE. Capital gain not to be charged on investment in units of a specified fund.—(1) Where the capital gain arises from the transfer of a long-term capital asset (herein in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, namely:—
 - (a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;
 - (b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:

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

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

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

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

^{2.} Ins. by Act 28 of 2016, s. 32 (w.e.f 1-4-2017).

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

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

- (a) "cost", in relation to any long -term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;
- (b) "long-term specified asset" means a unit or units, issued before the 1st day of April, 2019, of such fund as may be notified by the Central Government in this behalf.]
- ¹[54F. Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.—(1) ²[Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or ³[two years] after the date on which the transfer took place purchased, or has within a period of three years after that date ⁴[constructed, one residential house in India] (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—
 - (a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;
 - (b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

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

- (a) theassessee,—
- (i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or
- (ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or
- (iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and
- (b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".]

Explanation.—For the purposes of this section,—

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^{1.} Ins. by Act 14 of 1982, s. 12 (w.e.f. 1-4-1983).

^{2.} Subs. by Act 11 of 1987, s. 23, for "Where, in the case of an assesse being an individual" (w.e.f. 1-4-1988).

^{3.} Ins. by s. 23, *ibid*. (w.e.f 1-4-1988).

^{4.} Subs. by Act 25 of 2014, s. 24, for "constructed, a residential house" (w.e.f. 1-4-2015).

^{5.} Subs. by Act 10 of 2000, s. 28, for the proviso (w.e.f 1-4-2001).

^{6.} Clause (i) omitted by Act 11 of 1987, s. 23 (w.e.f. 1-4-1988).

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

- (2) Where the assessee purchases, within the period of 2 [two years] after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a), or, as the case may be, clause (b), of subsection (I), shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.
- (3) Where the new asset is transferred within a period of three years from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.]
- ³[(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any schemewhich the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

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

(i) the amount by which—

- (a) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1), exceeds
- (b) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

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

^{1.} The bracket and figure "(ii)" omitted by Act 11 of 1987, s. 23 (w.e.f. 1-4-1988).

^{2.} Subs. by s. 23, ibid., for "one year" (w.e.f. 1-4-1988).

^{3.} Ins. by s. 23, ibid. (w.e.f. 1-4-1988).

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

1* *]

- ²[54G. Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.—(1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place,—
 - (a) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted;
 - (b) acquired building or land or constructed building for the purposes of his business in the said area;
 - (c) shifted the original asset and transferred the establishment of such undertaking to such area; and
 - (d) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

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

- (i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be nil; or
- (ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

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

^{1.} The Explanation omitted by 18 of 1992, s. 31 (w.e.f. 1-4-1993).

^{2.} Ins. by Act 11 of 1987, s. 24 (w.e.f. 1-4-1988).

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

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

- (i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and
- (ii) theassessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

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

- (a) purchased machinery or plant for the purposes of business of the industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;
- (b) acquired building or land or constructed building for the purposes of his business in the Special Economic Zone;
- (c) shifted the original asset and transferred the establishment of such undertaking to the Special Economic Zone; and
- (d) incurred expenses on such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section,

2. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

^{1.} The Explanation omitted by Act 18 of 1992, s. 32 (w.e.f. 1-4-1993).

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

- (i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be Nil; or
- (ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section,—

- (a) "Special Economic Zone" shall have the meaning assigned to it in clause (za) of the Special Economic Zones Act, 2005;
- (b) "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.
- (2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of sub-section (I) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (I) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the aforesaid purposes together with the amount so deposited shall be deemed to be the cost of the new asset:

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

- (i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and
- (ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.]

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

- (i) the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee); and
- (ii) the assessee, before the due date of furnishing of return of income under sub-section (1) of section 139, utilises the net consideration for subscription in the equity shares of an eligible company (herein referred to as the company); and
- (iii) the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset,

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

- (a) if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year; or
- (b) if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.
- (2) The amount of the net consideration, which has been received by the company for issue of shares to the assessee, to the extent it is not utilised by the company for the purchase of the new asset before the due date of furnishing of the return of income by the assessee under section 139, shall be deposited by the company, before the said due date in an account in any such bank or institution as may be specified and shall be utilised in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.
- (3) For the purposes of sub-section (1), the amount, if any, already utilised by the company for the purchase of the new asset together with the amount deposited under sub-section (2) shall be deemed to be the cost of the new asset:

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

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

exceeds-

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

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

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

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

- (4) If the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (1) shall be deemed to be the income of the assessee chargeable under the head "Capital gains" of the previous year in which such equity shares or such new asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.
- (5) The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.

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

- (6) For the purposes of this section,—
 - (a) "eligible assessee" means an individual or a Hindu undivided family;
 - (b) "eligible company" means a company which fulfils the following conditions, namely:—
 - (i) it is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (1) of section 139 by the assessee;
 - (ii) it is engaged in the business of manufacture of an article or a thing ¹[or in an eligible business;]
 - (iii) it is a company in which the assessee has more than fifty per cent. share capital or more than fifty per cent. voting rights after the subscription in shares by the assessee; and
 - (*iv*) it is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006) ¹[or is an eligible start-up];
- ¹[(ba) "eligible start-up" and "eligible business" shall have the meanings respectively assigned to them in *Explanation* below sub-section (4) of section 80-IAC;]
 - (c) "net consideration" shall have the meaning assigned to it in the Explanation to section 54F;
 - (d) "new asset" means new plant and machinery but does not include—
 - (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
 - (ii) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house;
 - (iii) any office appliances including computers or computer software;
 - (iv) any vehicle; or
 - (ν) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.]

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

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

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

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

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

⁶* * * * * *

- ⁷[(b) "cost of any improvement",—
- (1) in relation to a capital asset being goodwill of a business ⁸[or a right to manufacture, produce or process any article or thing] ⁹[or right to carry on any business ¹⁰[or profession]] shall be taken to be nil; and
 - (2) in relation to any other capital asset,—]
 - (i) where the capital asset became the property of the previous owner or the assessee before the ¹¹[1st day of April, 2001], ¹²*** means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and
 - (ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in 13 [sub-section (I) of section 49], by the previous owner,

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

^{1.} Ins. by Act 28 of 2016, s. 33 (w.e.f. 1-4-2017).

^{2.} Ins. by Act 49 of 1991, s. 21 (w.e.f. 1-10-1991).

^{3.} The figures and letter ", 54E" omitted by Act 18 of 1992, s. 33 (w.e.f 1-4-1992).

^{4.} Subs. by Act 14 of 2001, s. 33, for ", 54EA, 54EB" (w.e.f. 1-4-2001).

^{5.} Subs. by Act 46 of 1986, s. 32, for "sections 48, 49 and 50" (w.e.f. 1-4-1988).

^{6.} Clause (a) omitted by s. 32, ibid. (w.e.f. 1-4-1988).

^{7.} Subs. by 11 of 1987, s. 25, for clause (b) (w.e.f. 1-4-1988).

^{8.} Ins. by Act 26 of 1997, s. 19 (w.e.f. 1-4-1998).

^{9.} Ins. by Act 20 of 2002, s. 26 (w.e.f. 1-4-2003).

^{10.} Ins. by Act 28 of 2016, s. 34 (w.e.f. 1-4-2017).

^{11.} Subs. by Act 7 of 2017, s. 28, for "1st day of April, 1981" (w.e.f. 1-4-2018). Earlier "1st day of April, 1974" was substituted by Act 23 of 1986, s. 13, for "1st day of January, 1964" (w.e.f. 1-4-1987) and later "1981" was substituted by Act 18 of 1992, s. 34, for "1974" (w.e.f. 1-4-1993).

^{12.} The words "and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee," omitted by s. 34, *ibid*. (w.e.f. 1-4-1993).

^{13.} Subs. by Act 20 of 1967, s. 21, for "section 49" (w.e.f. 1-4-1967).

- (2) ¹[For the purposes of sections 48 and 49, "cost of acquisition",—
- ²[(a) in relation to a capital asset, being goodwill of a business ³[or a trade mark or brand name associated with a business] ⁴[or a right to manufacture, produce or process any article or thing]⁵[or right to carry on any business ⁶[or profession]], tenancy rights, stage carriage permits or loom hours,—
 - (i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and
 - (ii) in any other case [not being a case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49], shall be taken to be nil;
- (aa) ⁷[in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee—
 - (A) becomes entitled to subscribe to any additional financial asset; or
 - (B) is allotted any additional financial asset without any payment,

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

- (i) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;
- (ii) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be nil in the case of such assessee;
- (iii) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset;
- ⁸[(*iiia*) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be nil in the case of such assessee;] and
- (*iv*) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset;]
- ⁹[(*ab*) in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for ¹⁰[demutualisation or corporatisation] approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall be the cost of acquisition of his original membership of the exchange:

^{1.} Subs. by Act 11 of 1987, s. 25, for the "For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—" (w.e.f. 1-4-1988).

^{2.} Subs. by Act 32 of 1994, s. 18, for clause (a) (w.e.f. 1-4-1995).

^{3.} Ins. by 14 of 2001, s. 34 (w.e.f. 1-4-2002).

^{4.} Ins. by Act 26 of 1997, s. 19 (w.e.f. 1-4-1998).

^{5.} Ins. by 20 of 2002, s. 26 (w.e.f. 1-4-2003).

^{6.} Ins. by Act 28 of 2016, s. 34 (w.e.f. 1-4-2017).

^{7.} Subs. by Act 22 of 1995, s. 14, for "in a case where, "and ending with "sub-clauses (i) and (ii) of clause (b)" (w.e.f. 1-4-1996).

^{8.} Ins. by Act 22 of 1995, s. 14 (w.e.f. 1-4-1996).

^{9.} Ins. by Act 14 of 2001, s. 34 (w.e.f. 1-4-2002).

^{10.} Subs. by Act 32 of 2003, s. 31, for "corporatisation" (w.e.f. 1-4-2004).