

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) such capital asset being converted by the transferee company into, or being treated by it, as stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the patent was revoked, or

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

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

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

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

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

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

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

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

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

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

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

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

#### SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Explanation.*— In this section,—

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

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

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

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

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

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

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

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

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

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

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

### SPECIAL PROCEDURE FOR ASSESSMENT OF SEARCH CASES

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall be excluded:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall be excluded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER XV

### LIABILITY IN SPECIAL CASES

#### *A.—Legal representatives*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

*C.—Representative assessee—Special cases*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that in a case where—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that in a case where—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*D.—Representative assesseees—Miscellaneous provisions*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *E.—Executors*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *G.—Partition*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and the provisions of this Act shall apply accordingly.]

*Explanation.*—In this section,—

(a) “partition” means—

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

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

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

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

2. Ins. by Act 44 of 1980, s. 28 (w.e.f. 1-4-1980).



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *J.—Persons leaving India*

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

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

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

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

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

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

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1. Ins. by Act 26 of 1997, s. 45 (w.e.f. 1-4-1976).

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

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

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

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

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

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

*K.—Persons trying to alienate their assets*

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

*L.—Discontinuance of business, or dissolution*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>2</sup>[(3) The liquidator—

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>1</sup>[*M.—Private companies*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER XVI

### SPECIAL PROVISIONS APPLICABLE TO FIRMS

<sup>2</sup>[A.—*Assessment of firms*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

## CHAPTER XVII

## COLLECTION AND RECOVERY OF TAX

### A.—General

**191. Direct payment.**—<sup>4\*\*\*</sup> In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct.

$5^*$                       \*                      \*                      \*

(b) referred to in sub-section (1A) of section 192, being an employer,

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*B.—Deduction at source*

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

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

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

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

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

<sup>7</sup>[*Explanation.*—For the purposes of this sub-section, “University” means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>6</sup>\*

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

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

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

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

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

5. Subs. by Act 10 of 1965, s. 44, for “Income-tax and super-tax” (w.e.f. 1-4-1965).

6. The *Explanation* omitted by s. 44, *ibid* (w.e.f. 1-4-1965).

7. Ins. by Act 20 of 2015, s. 42 (w.e.f. 1-6-2015).



declaration in writing before the person responsible for paying the interest that the total nominal value of the 6½ per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent. Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates;]

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

<sup>2</sup>[(iv) any interest payable on any security of the Central Government or a State Government:]

<sup>3</sup>[Provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 <sup>4</sup>[or 7.75% Savings (Taxable) Bonds, 2018] during the financial year;]

<sup>5</sup>[(v) any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if—

(a) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed five thousand rupees; and

(b) such interest is paid by the company by an account payee cheque;]

<sup>6</sup>[(vi) any interest payable to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or

(vii) any interest payable to the General Insurance Corporation of India (hereafter in this clause referred to as the Corporation) or to any of the four companies (hereafter in this clause referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or

(viii) any interest payable to any other insurer in respect of any securities owned by it or in which it has full beneficial interest;]

<sup>7</sup>[(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder.]

<sup>8</sup>[*Explanation* <sup>9</sup>\*\*\*.—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

<sup>10</sup>\* \* \* \*

1. Clause (iia) omitted by Act 26 of 1997, s. 46 (w.e.f. 1-6-1997).

2. Subs. by s. 46, *ibid.*, for clause (iv) (w.e.f. 1-6-1997).

3. Ins. by Act 22 of 2007, s. 52 (w.e.f. 1-6-2007).

4. Ins. by Act 13 of 2018, s. 48 (w.e.f. 1-4-2018).

5. Subs. by Act 23 of 2012, s. 72, for clause (v) (w.e.f. 1-7-2012).

6. Ins. by Act 20 of 2002, s. 72 (w.e.f. 1-6-2002).

7. Ins. by Act 18 of 2008, s. 42 (w.e.f. 1-6-2008).

8. Ins. by Act 13 of 1989, s. 22 (w.e.f. 1-6-1989).

9. The figure “1” omitted by Act 18 of 1992, s. 70 (w.e.f. 1-6-1992).

10. *Explanation* 2 omitted by s. 70, *ibid* (w.e.f. 1-6-1992).

**194. Dividends.**—The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder, <sup>1</sup>[who is resident in India,] of any dividend within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax <sup>2\*\*\*</sup> at the rates in force:

<sup>3</sup>[Provided that no such deduction shall be made in the case of a shareholder, being an individual, if—

(a) the dividend is paid by the company by an account payee cheque; and

(b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed <sup>4</sup>[two thousand five hundred rupees]:

Provided further that the provisions of this section shall not apply to such income credited or paid to—

(a) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any shares owned by it or in which it has full beneficial interest;

(b) the General Insurance Corporation of India (hereafter in this proviso referred to as the Corporation) or to any of the four companies (hereafter in this proviso referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest;

(c) any other insurer in respect of any shares owned by it or in which it has full beneficial interest:]

<sup>5</sup>[Provided also that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

<sup>6</sup>**[194A. Interest other than “Interest on securities”.**—(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:

<sup>7</sup>[Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.]

<sup>8</sup>**[Explanation.**—For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Ins. by Act 49 of 1991, s. 51 (w.e.f. 1-10-1991).

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

3. Subs. by Act 20 of 2002, s. 73, for the first and second provisos (w.e.f. 1-6-2002).

4. Subs. by Act 32 of 2003, s. 73, for “one thousand rupees” (w.e.f. 1-8-2002).

5. Ins. by s. 73, *ibid.* (w.e.f. 1-4-2003).

6. Ins. by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

7. Ins. by Act 20 of 2002, s. 74 (w.e.f. 1-6-2002).

8. Ins. by Act 11 of 1987, s. 47 (w.e.f. 1-6-1987).

(3) The provisions of sub-section (1) shall not apply—

<sup>2</sup>[(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, <sup>3</sup>[does not exceed—

(a) <sup>4</sup>[forty thousand] rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) <sup>4</sup>[forty thousand] thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) <sup>4</sup>[forty thousand] rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and

(d) five thousand rupees in any other case:]

<sup>5</sup>[Provided that in respect of the income credited or paid in respect of—

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India <sup>6</sup>[for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36] <sup>7</sup>\*\*\*;

<sup>8</sup>\*\*\* the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be:]

<sup>9</sup>[Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions;]

1. Sub-section (2) omitted by Act 18 of 1992, s. 71 (w.e.f. 1-6-1992).

2. Subs. by Act 25 of 1975, s. 20, for clause (i) (w.e.f. 1-4-1975).

3. Subs. by Act 22 of 2007, s. 53, for “does not exceed five thousand rupees” (w.e.f. 1-6-2007).

4. Subs. by Act 7 of 2019, s. 9, for “ten thousand” (w.e.f. 1-4-2019).

5. Subs. by Act 33 of 1996, s. 49, for the proviso (w.e.f. 1-10-1996).

6. Subs. by Act 10 of 2000, s. 60, for “for residential purposes” (w.e.f. 1-4-2000).

7. The certain words, brackets and figures omitted by Act 27 of 1999, s. 69 (w.e.f. 1-4-2000).

8. The certain words omitted by Act 14 of 2001, s. 69 (w.e.f. 1-6-2001).

9. Ins. by Act 20 of 2015, s. 43 (w.e.f. 1-6-2015).

<sup>1</sup>[Provided also that in case of payee being a senior citizen, the provisions of sub-clause (a), sub-clause (b), and sub-clause (c) shall have effect as if for the words “<sup>2</sup>[forty thousand] thousand rupees”, the words “fifty thousand rupees” had been substituted.

*Explanation.*—For the purposes of this clause, “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;]

<sup>3</sup>\* \* \* \* \*

(iii) to such income credited or paid to—

(a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or

(b) any financial corporation established by or under a Central, State or Provincial Act, or

(c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or

(d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or

(e) any company or co-operative society carrying on the business of insurance, or

(f) such other institution, association or body <sup>4</sup>[or class of institutions, associations or bodies] which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette;

<sup>5</sup>[(iv) to such income credited or paid by a firm to a partner of the firm;]

(v) to such income credited or <sup>6</sup>[paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society] to any other co-operative society;]

<sup>7</sup>[*Explanation.*—For the purposes of this clause, “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);]

<sup>8</sup>[(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;

<sup>9</sup>[(vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);

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1. Ins. by Act 13 of 2018, s. 49 (w.e.f. 1-4-2018).

2. Subs. by Act 7 of 2019, s. 9, for “ten thousand” (w.e.f. 1-4-2019).

3. Clause (ii) omitted by Act 27 of 1999, s. 69 (w.e.f. 1-4-2000).

4. Ins. by Act 19 of 1968, s. 14 (w.e.f. 1-4-1968).

5. Ins. by Act 3 of 1989, s. 30 (w.e.f. 1-4-1988). Which was omitted by Act 4 of 1988, s. 73 (w.e.f. 1-4-1988). Original clause (iv) was inserted by Act 19 of 1968, s. 14 (w.e.f. 1-4-1968).

6. Subs. by Act 20 of 2015, s. 43, for “paid by co-operative society to a member thereof or” (w.e.f. 1-6-2015).

7. Ins. by s. 43, *ibid.* (w.e.f. 1-6-2015).

8. Ins. by Act 19 of 1970, s. 23 (w.e.f. 1-4-1970).

9. Subs. by Act 22 of 1995, s. 33, for clause (vii) (w.e.f. 1-7-1995).



(viii) to such income credited or paid in respect of,—

(a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;]]

<sup>1</sup>[(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974);]

<sup>2</sup>[(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;]

<sup>3</sup>[(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company <sup>4</sup>[or scheduled bank] in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company <sup>4</sup>[or scheduled bank];]

<sup>5</sup>[(xi) to any income by way of interest referred to in clause (23FC) of section 10.]

<sup>6</sup>[*Explanation 1*.—For the purposes of clauses (i), (vii) and (viii), “time deposits” means deposits (<sup>7</sup>[including] recurring deposits) repayable on the expiry of fixed periods.

<sup>8</sup>\* \* \* \* \*

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

<sup>9</sup>\* \* \* \* \*

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1. Ins. by Act 25 of 1975, s. 20 (w.e.f. 1-4-1975).

2. Subs. by Act 20 of 2015, s. 43, for clause (ix) (w.e.f. 1-6-2015).

3. Ins. by Act 18 of 2005, s. 48 (w.e.f. 1-6-2005).

4. Ins. by Act 33 of 2009, s. 60 (w.e.f. 1-4-2009).

5. Ins. by Act 25 of 2014, s. 56 (w.e.f. 1-10-2014).

6. Subs. by Act 18 of 2005, s. 48, for the *Explanation* (w.e.f. 1-6-2005).

7. Subs. by Act 20 of 2015, s. 43, for “excluding” (w.e.f. 1-6-2015).

8. *Explanation 2* omitted by Act 21 of 2006 s. 40 (w.e.f. 1-4-2006).

9. The *Explanation* omitted by Act 18 of 1992, s. 71 (w.e.f. 1-6-1992).

<sup>1</sup>[**194B. Winnings from lottery or crossword puzzle.**—The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle <sup>2</sup>[or card game and other game of any sort] in an amount exceeding <sup>3</sup>[ten thousand rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force:

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

<sup>5</sup>[<sup>6</sup>Provided that] in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.]

<sup>7</sup>[**194BB. Winnings from horse race.**—Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in an amount exceeding <sup>8</sup>[ten thousand rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

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

<sup>9</sup>[**194C. Payments to contractors.**—(1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(ii) two per cent where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

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1. Ins. by Act 16 of 1972, s. 28 (w.e.f. 1-4-1975).

2. Ins. by Act 14 of 2001, s. 70 (w.e.f. 1-6-2001).

3. Subs. by Act 14 of 2010, s. 35, for “five thousands rupees” (w.e.f. 1-7-2010). Earlier substituted by Act 26 of 1986, s. 30, for “one thousands rupees” (w.e.f. 1-6-1986).

4. The proviso omitted by Act 27 of 1999, s. 70 (w.e.f. 1-4-2000).

5. Ins. by Act 26 of 1997, s. 48 (w.e.f. 1-6-1997).

6. Subs. by Act 27 of 1999, s. 70, “Provided further that” (w.e.f. 1-4-2000).

7. Ins. by Act 19 of 1978, s. 21 (w.e.f. 1-4-1978).

8. Subs. by Act 28 of 2016, s. 73, for “five thousand rupees” (w.e.f. 1-6-2016).

9. Subs. by Act 33 of 2009, s. 61, for section 194C (w.e.f. 1-10-2009).

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed <sup>1</sup>[thirty thousand rupees]:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds <sup>2</sup>[one lakh rupees], the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, <sup>3</sup>[where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with] his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

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

(i) “specified person” shall mean,—

(a) the Central Government or any State Government; or

(b) any local authority; or

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

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or

(h) any trust; or

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

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

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1. Subs. by Act 14 of 2010, s. 37, for “twenty thousand rupees” (w.e.f. 1-7-2010).

2. Subs. by Act 28 of 2016, s. 74, for “seventy-five thousand rupees” (w.e.f. 1-6-2016). Earlier the quoted words were substituted for “fifty thousand rupees” (w.e.f. 1-7-2010).

3. Subs. by Act 20 of 2015, s. 44, for “on furnishing of” (w.e.f. 1-6-2015).

(I) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(A) does not fall under any of the preceding sub-clauses; and

(B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) “goods carriage” shall have the meaning assigned to it in the *Explanation* to sub-section (7) of section 44AE;

(iii) “contract” shall include sub-contract;

(iv) “work” shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer,

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.]

<sup>1</sup>[**194D. Insurance commission.**—Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973:]

<sup>2</sup>[Provided further that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed <sup>3</sup>[fifteen thousand rupees].]

<sup>4</sup>[**194DA. Payment in respect of life insurance policy.**—Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (10D) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of <sup>5</sup>[one per cent.]:]

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1. Ins. by Act 21 of 1973, s. 17 (w.e.f. 1-4-1973).

2. Ins. by Act 11 of 1987, s. 48 (w.e.f. 1-6-1987).

3. Subs. by Act 28 of 2016, s. 75, for “twenty thousand rupees” (w.e.f. 1-6-2016). Earlier the quoted words were substituted by Act 14 of 2010, s. 38, for “five thousand rupees” (w.e.f. 1-7-2010).

4. Ins. by Act 25 of 2014, s. 57 (w.e.f. 1-10-2014).

5. Subs. by Act 28 of 2016, s. 76, for “two per cent.” (w.e.f. 1-6-2016).

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees.]

<sup>1</sup>[**194E. Payments to non-resident sportsmen or sports associations.**—Where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) <sup>2</sup>[or an entertainer] who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>3</sup>[twenty per cent.].]

<sup>4</sup>[**194EE. Payments in respect of deposits under National Savings Scheme, etc.**—The person responsible for paying to any person any amount referred to in clause (a) of sub-section (2) of section 80CCA shall, at the time of payment thereof, deduct income-tax thereon at the rate of <sup>5</sup>[ten per cent.]:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than two thousand five hundred rupees :

Provided further that nothing contained in this section shall apply to the payment of the said amount to the heirs of the assessee.]

<sup>6</sup>[**194F. Payments on account of repurchase of units by Mutual Fund or Unit Trust of India.**—The person responsible for paying to any person any amount referred to in sub-section (2) of section 80CCB shall, at the time of payment thereof, deduct income-tax thereon at the rate of twenty per cent.]

<sup>7</sup>[**194G. Commission, etc., on the sale of lottery tickets.**—<sup>8</sup>[(1)] Any person who is responsible for paying, on or after the 1st day of October, 1991 to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name called) on such tickets in an amount exceeding<sup>9</sup>[fifteen thousand rupees] shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>10</sup>[five per cent.].]

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*Explanation.*—For the purposes of this section, where any income is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

1. Ins. by Act 36 of 1989, s. 22 (w.e.f. 1-11-1989). Earlier section 194D was omitted by Act 3 of 1989, s. 31(w.e.f. 1-4-1988) which was inserted by Act 4 of 1988, s. 74 (w.e.f. 1-4-1988).

2. Ins. by Act 23 of 2012, s. 73 (w.e.f. 1-7-2012).

3. Subs. by s. 73, *ibid.*, for "ten per cent." (w.e.f. 1-7-2012).

4. Ins. by Act 49 of 1991, s. 54 (w.e.f. 1-10-1991).

5. Subs. by Act 28 of 2016, s. 77, for "twenty per cent." (w.e.f. 1-6-2016).

6. Ins. by Act 12 of 1990, s. 40 (w.e.f. 1-4-1991).

7. Ins. by Act 49 of 1991, s. 55 (w.e.f. 1-10-1991).

8. Section 73 renumbered as sub-section (1) thereof by Act 18 of 1992, s. 73 (w.e.f. 1-6-1992).

9. Subs. by Act 28 of 2016, s. 78, for "one thousand rupees" (w.e.f. 1-6-2016).

10. Subs. by s. 78, *ibid.*, for "ten per cent." (w.e.f. 1-6-2016).

11. Sub-sections (2) and (3) omitted by Act 32 of 2003, s. 76 (w.e.f. 1-6-2003). Earlier sub-sections (2) and (3) were inserted by Act 18 of 1992, s. 73 (w.e.f. 1-6-1992).

<sup>1</sup>**[194H. Commission or brokerage.**—Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>2</sup>[five per cent.]:

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed <sup>3</sup>[fifteen thousand rupees]:

<sup>4</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, shall be liable to deduct income-tax under this section:]

<sup>5</sup>[Provided also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.]

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

(i) “commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(ii) the expression “professional services” means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;

(iii) the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(iv) where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Section 194H reinserted by Act 14 of 2001, s. 71 (w.e.f. 1-6-2001). Earlier section 194H was omitted by Act 27 of 1999, s. 72 (w.e.f. 1-4-2000). Amended by Act 18 of 1992, s. 74 (w.e.f. 1-6-1992) and prior its omission section 194H was inserted by Act 49 of 1991, s. 55 (w.e.f. 1-10-1991).

2. Subs. by Act 28 of 2016, s. 79, for “ten per cent.” (w.e.f. 1-6-2016).

3. Subs. by s. 79, *ibid.*, for “five thousand rupees” (w.e.f. 1-6-2016).

4. Ins. by Act 20 of 2002, s. 76 (w.e.f. 1-6-2002).

5. Ins. by Act 22 of 2007, s. 55 (w.e.f. 1-6-2007).

<sup>1</sup>[**194-I. Rent.**—<sup>2</sup>[Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident] any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, <sup>3</sup>[deduct income-tax thereon at the rate of—

<sup>4</sup>[(a) two per cent. for the use of any machinery or plant or equipment; and

(b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:]]

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed <sup>5</sup>[two hundred and forty thousand rupees]:

<sup>6</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section:]

<sup>7</sup>[Provided also that no deduction shall be made under this section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.]

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

<sup>8</sup>[(i) “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,—

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

(g) furniture; or

(h) fittings,

whether or not any or all of the above are owned by the payee;]

(ii) where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Ins. by Act 32 of 1994, s. 40 (w.e.f. 1-6-1994).

2. Subs. by Act 32 of 2003, s. 77, for certain words (w.e.f. 1-6-2003).

3. Subs. by Act 22 of 1995, s. 35, for “deduct income-tax thereon at the rate of twenty per cent.” (w.e.f. 1-7-1995).

4. Subs. by Act 33 of 2009, s. 62, for clauses (a), (b) and (c) (w.e.f. 1-10-2009).

5. Subs. by Act 7 of 2019, s. 10, for “one hundred eighty thousand rupees” (w.e.f. 1-4-2019). Earlier it was substituted by Act 14 of 2010, s. 40, for “one hundred and twenty thousand rupees” (w.e.f. 1-7-2010).

6. Ins. by Act 20 of 2002, s. 77 (w.e.f. 1-6-2002).

7. Ins. by Act 20 of 2015, s. 45 (w.e.f. 1-6-2015).

8. Subs. by Act 29 of 2006, s. 15, for clause (i) (w.e.f. 13-7-2006).

<sup>1</sup>**[194-IA. Payment on transfer of certain immovable property other than agricultural land—(1)** Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax thereon.

(2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property is less than fifty lakh rupees.

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

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

(a) “agricultural land” means agricultural land in India, not being a land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of section 2;

(b) “immovable property” means any land (other than agricultural land) or any building or part of a building.]

<sup>2</sup>**[194-IB. Payment of rent by certain individuals or Hindu undivided family.—(1)** Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon.

(2) The income-tax referred to in sub-section (1) shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

(4) In a case where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

*Explanation.*—For the purposes of this section, “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.]

<sup>3</sup>**[194-IC. Payment under specified agreement.—**Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon.]

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1. Ins. by Act 17 of 2013, s. 46 (w.e.f. 1-6-2013).

2. Ins. by Act 7 of 2017, s. 64 (w.e.f. 1-6-2017).

3. Ins. by s. 65, *ibid.* (w.e.f. 1-4-2017).



<sup>1</sup>**[194J. Fees for professional or technical services.]—**(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, <sup>2</sup>[or]

<sup>3</sup>[(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or]

<sup>2</sup>[(c) royalty, or

(d) any sum referred to in clause (va) of section 28,]

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to <sup>4</sup>[ten per cent.] of such sum as income-tax on income comprised therein:

Provided that no deduction shall be made under this section—

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

(i) <sup>5</sup>[thirty thousand rupees], in the case of fees for professional services referred to in clause (a), or

(ii) <sup>5</sup>[thirty thousand rupees], in the case of fees for technical services referred to in <sup>6</sup>[clause (b), or]

<sup>2</sup>[(iii) <sup>5</sup>[thirty thousand rupees], in the case of royalty referred to in clause (c), or

(iv) <sup>5</sup>[thirty thousand rupees], in the case of sum referred to in clause (d):]

<sup>7</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section:]

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1. Ins. by Act 22 of 1995, s. 36 (w.e.f. 1-7-1995).

2. Ins. by Act 29 of 2006, s. 16 (w.e.f. 13-7-2006).

3. Ins. by Act 23 of 2012, s. 74 (w.e.f. 1-7-2012).

4. Subs. by Act 22 of 2007, s. 57, for “five per cent.” (w.e.f. 1-6-2007).

5. Subs. by Act 14 of 2010, s. 41, for “twenty thousand rupees” (w.e.f. 1-7-2010).

6. Subs. by Act 29 of 2006, s. 16, for “clause (b):” (w.e.f. 13-7-2006).

7. Ins. by Act 20 of 2002, s. 78 (w.e.f. 1-6-2002).

<sup>1</sup>[Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family:]

<sup>2</sup>[Provided also that the provisions of this section shall have effect, as if for the words “ten per cent.”, the words “two per cent.” had been substituted in the case of a payee, engaged only in the business of operation of call centre.]

<sup>3</sup>\* \* \* \* \*

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

(a) “professional services” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

(b) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;

<sup>4</sup>[(ba) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;]

(c) where any sum referred to in sub-section (1) is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

**194K. [Income in respect of units.]**—Omitted by the Finance Act, 2016 (28 of 2016), s. 80 (w.e.f. 1-6-2016).

**194L. [Payment of compensation on acquisition of capital asset.]**—Omitted by s. 80, *ibid.* (w.e.f. 1-6-2016).

<sup>5</sup>[**194LA. Payment of compensation on acquisition of certain immovable property.**—Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon:

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1. Ins. by Act 32 of 2003, s. 78 (w.e.f. 1-6-2003).

2. Ins. by Act 7 of 2017, s. 66 (w.e.f. 1-6-2017).

3. Sub-section (2) and (3) omitted by Act 32 of 2003, s. 78 (w.e.f. 1-6-2003).

4. Ins. by Act 29 of 2006, s. 16 (w.e.f. 13-7-2006).

5. Ins. by Act 23 of 2004, s. 38 (w.e.f. 1-10-2004).

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed <sup>1</sup>[two lakh and fifty thousand rupees]:

<sup>2</sup>[Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).]

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

(i) “agricultural land” means agricultural land in India including land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of section 2;

(ii) “immovable property” means any land (other than agricultural land) or any building or part of a building.]

<sup>3</sup>[**194LB. Income by way of interest from infrastructure debt fund.**—Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause (47) of section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.]

<sup>4</sup>[**194LBA. Certain income from units of a business trust.**—(1) Where any distributed income referred to in section 115UA, being of the nature referred to <sup>5</sup>[in sub-clause (a) of clause (23FC)] <sup>6</sup>[or clause (23FCA)] of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

(2) Where any distributed income referred to in section 115UA, being of the nature referred to <sup>5</sup>[in sub-clause (a) of clause (23FC)] of section 10, is payable by a business trust to its unit holder, <sup>7</sup>[being a non-resident (not being a company)] or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.]

<sup>6</sup>[(3) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.]

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1. Subs. by Act 28 of 2016, s. 81, for “two hundred thousand rupees” (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 67 (w.e.f. 1-4-2017).

3. Ins. by Act 8 of 2011, s. 28 (w.e.f. 1-6-2011).

4. Ins. by Act 25 of 2014, s. 58 (w.e.f. 1-10-2014).

5. Subs. by Act 28 of 2016, s. 82, for “in clause (23FC)” (w.e.f. 1-6-2016).

6. Ins. by Act 20 of 2015, s. 46 (w.e.f. 1-6-2015).

7. Subs. by s. 46, *ibid.*, for “being a non-resident, not being a company” (w.e.f. 1-6-2015).

<sup>1</sup>[**194LBB. Income in respect of units of investment fund.**—Where any income, other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier,<sup>2</sup>[deduct income-tax thereon,—

(i) at the rate of ten per cent, where the payee is a resident;

(ii) at the rates in force, where the payee is a non-resident (not being a company) or a foreign company:

Provided that where the payee is a non-resident (not being a company) or a foreign company, no deduction shall be made in respect of any income that is not chargeable to tax under the provisions of the Act.]

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

(a) “unit” shall have the meaning assigned to it in clause (c) of the *Explanation 1* to section 115UB;

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.]

<sup>3</sup>[**194LBC. Income in respect of investment in securitization trust.**—(1) Where any income is payable to an investor, being a resident, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rate of—

(i) twenty-five per cent., if the payee is an individual or a Hindu undivided family;

(ii) thirty per cent., if the payee is any other person.

(2) Where any income is payable to an investor, being a non-resident (not being a company) or a foreign company, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rates in force.

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

(a) “investor” shall have the meaning assigned to it in clause (a) of the *Explanation* occurring after section 115TCA;

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1. Ins. by Act 20 of 2015, s. 47 (w.e.f. 1-6-2015).

2. Subs. by Act 28 of 2016, s. 83, for “deduct income-tax thereon at the rate of ten per cent.” (w.e.f. 1-6-2016).

3. Ins. by s. 84, *ibid* (w.e.f. 1-6-2016).

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.]

<sup>1</sup>[194LC. Income by way of interest from Indian company.—(1) Where any income by way of interest referred to in sub-section (2) is payable to a non-resident, not being a company or to a foreign company by a specified company <sup>2</sup>[or a business trust], the person responsible for making the payment, shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct the income-tax thereon at the rate of five per cent.

(2) The interest referred to in sub-section (1) shall be the income by way of interest payable by the specified company <sup>2</sup>[or the business trust],—

<sup>3</sup>[(i) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the <sup>4</sup>[1st day of July, 2020]; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the <sup>4</sup>[1st day of July, 2020],

as approved by the Central Government in this behalf;<sup>5</sup>[or]

<sup>6</sup>[(ia) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020, and]

(ii) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

*Explanation.*—For the purpose of this section—

(a) “foreign currency” shall have the meaning assigned to it in clause (m) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) “specified company” means an Indian company.]

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1. Ins. by Act 23 of 2012, s. 76 (w.e.f. 1-7-2012).

2. Ins. by Act 25 of 2014, s. 59 (w.e.f. 1-10-2014).

3. Subs. by s. 59, *ibid.*, for clause (i) (w.e.f. 1-10-2014).

4. Subs. by Act 7 of 2017, s. 68, for “1st day of July, 2017” (w.e.f. 1-4-2018).

5. Subs. by s. 68, *ibid.*, for “and” (w.e.f. 1-4-2018).

6. Ins. by s. 68, *ibid.* (w.e.f. 1-4-2016).

<sup>1</sup>[194LD. Income by way of interest on certain bonds and Government securities.—(1) Any person who is responsible for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor, any income by way of interest referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

(2) The income by way of interest referred to in sub-section (1) shall be the interest payable on or after the 1st day of June, 2013 but before the <sup>2</sup>[1st day of July, 2020] in respect of investment made by the payee in—

(i) a rupee denominated bond of an Indian company ; or

(ii) a Government security:

Provided that the rate of interest in respect of bond referred to in clause (i) shall not exceed the rate as may be notified by the Central Government in this behalf.

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

(a)“Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD;

(b)“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);

(c)“Qualified Foreign Investor” shall have the meaning assigned to it in the Circular No. Cir/IMD/DF/14/2011, dated the 9th August, 2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

**195. Other sums.**—<sup>3</sup>[(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, <sup>4</sup>[any interest (not being interest referred to in section 194LB or section 194LC)]<sup>5</sup>[or section 194LD] <sup>6</sup>\*\*\* or any other sum chargeable under the provisions of this Act (not being income chargeable under the head “Salaries” <sup>7</sup>\*\*\*)] shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:

<sup>8</sup>[Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode:]

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1. Ins. by Act 17 of 2013, s. 47 (w.e.f. 1-6-2013).

2. Subs. by Act 7 of 2017, s. 69, for “1st day of July, 2017” (w.e.f. 1-4-2018).

3. Subs. by Act 11 of 1987, s. 49, for sub-section (1) (w.e.f. 1-6-1987).

4. Subs. by Act 23 of 2012, s. 77, for “any interest” (w.e.f. 1-4-2012).

5. Ins. by Act 17 of 2013, s. 48 (w.e.f. 1-6-2013).

6. The words “(not being interest on securities)” omitted by Act 32 of 2003, s. 80 (w.e.f. 1-6-2003).

7. The words “or dividends” omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991).

8. Ins. by Act 36 of 1989, s. 23 (w.e.f. 1-6-1987).

<sup>1</sup>[Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

*Explanation* <sup>2</sup>[1].—For the purposes of this section, where any interest or other sum as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

<sup>3</sup>[*Explanation* 2.—For the removal of doubts, it is hereby clarified that the obligation to comply with sub-section (1) and to make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has—

(i) a residence or place of business or business connection in India; or

(ii) any other presence in any manner whatsoever in India.]

(2) Where the person responsible for paying any such sum chargeable under this Act (<sup>4</sup>[other than salary]) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the <sup>5</sup>[Assessing Officer] to determine, <sup>6</sup>[by general or special order], the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

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

<sup>8</sup>[(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the <sup>5</sup>[Assessing Officer] for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the <sup>5</sup>[Assessing Officer] before the expiry of such period, till such cancellation.

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1. Ins. by Act 32 of 2003, s. 80 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 80 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 49 (w.e.f. 1-6-1997).

2. The *Explanation* renumbered as *Explanation* 1 thereof by Act 23 of 2012, s. 77 (w.r.e.f. 1-4-1962).

3. Ins. by s. 77, *ibid.* (w.r.e.f. 1-4-1962).

4. Subs. by Act 32 of 2003, s. 80, for “other than interest on securities and salary” (w.e.f. 1-6-2003). Earlier the words “other than interest including interest on securities” substituted by Act 66 of 1976, s. 22, for “other than interest on securities” (w.e.f. 1-6-1976) and the word “dividend” was omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991).

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

6. Subs. by Act 26 of 1988, s. 39, for “in the prescribed manner (w.r.e.f. 1-3-1988). Earlier the quoted words were substituted by Act 11 of 1987, s. 49 for “by general or special order” (w.e.f. 1-6-1987).

7. The proviso omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991). Earlier the proviso was inserted by Act 11 of 1987, s. 49 (w.e.f. 1-6-1987).

8. Ins. by Act 19 of 1970, s. 24 (w.e.f. 1-4-1970).

(5) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

<sup>1</sup>[(6) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.]

<sup>2</sup>[(7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.]

<sup>3</sup>**[195A. Income payable “net of tax”.—**<sup>4</sup>[In a case other than that referred to in sub-section (1A) of section 192, where under an agreement] or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon at the rates in force for the financial year in which such income is payable, be equal to the net amount payable under such agreement or arrangement.]

<sup>5</sup>**[196. Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.—**Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.]

<sup>6</sup>**[196A. Income in respect of units of non-residents.—**(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent :

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1. Subs. by Act 20 of 2015, s. 49, for sub-section (6) (w.e.f. 1-6-2015). Earlier sub-section (6) was inserted by Act 18 of 2008, s. 44 (w.e.f. 1-4-2008).

2. Ins. by Act 23 of 2012, s. 77 (w.e.f. 1-7-2012).

3. Ins. by Act 11 of 1987, s. 50 (w.e.f. 1-6-1987).

4. Subs. by Act 20 of 2002, s. 81, for “Where, under an agreement” (w.e.f. 1-6-2002).

5. Subs. by Act 4 of 1988, s. 75, for section 196 (w.e.f. 1-4-1988). Earlier section 196 was substituted by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

6. Subs. by Act 22 of 1995, s. 37, for section 196A (w.e.f. 1-7-1995).



<sup>1</sup>[Provided that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.]

(2) Notwithstanding anything contained in sub-section (1), no deduction of tax shall be made from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, where the units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India or by remittance of funds in foreign currency, in accordance, in either case, with the provisions of <sup>2</sup>[the Foreign Exchange Management Act, 1999 (42 of 1999)], and the rules made thereunder.

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

(a) “foreign currency” shall have the meaning assigned to it in <sup>2</sup>[the Foreign Exchange Management Act, 1999 (42 of 1999)];

(b) “non-resident Indian” shall have the meaning assigned to it in clause (e) of section 115C;

(c) “Unit Trust of India” means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(d) where any income as aforesaid is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

<sup>3</sup>[**196B. Income from units.**—<sup>4</sup>[Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore Fund], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]

<sup>5</sup>[**196C. Income from foreign currency bonds or shares of Indian company.**—<sup>6</sup>[Where any income by way of interest or dividends in respect of <sup>7</sup>[bonds or Global Depository Receipts] referred to in section 115AC or by way of long-term capital gains arising from the transfer of such <sup>7</sup>[bonds or Global Depository Receipts] is payable to a non-resident], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]:

<sup>8</sup>[Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

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1. Ins. by Act 32 of 2003, s. 81 (w.e.f. 1-4-2003). Earlier the proviso omitted by Act 20 of 2002, s. 82 (w.e.f. 1-6-2002) which was inserted by Act 27 of 1999, s. 75 (w.e.f. 1-6-1999).

2. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

3. Ins. by Act 49 of 1991, s. 58 (w.e.f. 1-10-1991).

4. Subs. by Act 38 of 1993, s. 26, for “Where any income is payable in respect of units referred to in section 115AB to an Offshore Fund” (w.e.f. 1-6-1993).

5. Ins. by Act 18 of 1992, s. 75 (w.e.f. 1-6-1992).

6. Subs. by Act 38 of 1993, s. 27, for “Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident” (w.e.f. 1-6-1993).

7. Subs. by Act 14 of 2001, s. 72, for “bonds or shares” (w.e.f. 1-4-2002).

8. Ins. by Act 32 of 2003, s. 82 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 83 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 50 (w.e.f. 1-6-1997).

<sup>1</sup>[**196D. Income of Foreign Institutional Investors from securities.**—(I) Where <sup>2</sup>[any income in respect of securities referred to in clause (a) of sub-section (I) of section 115AD, not being income by way of interest referred to in section 194LD, is payable] to a Foreign Institutional Investor, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.:

<sup>3</sup>[Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor.]

**197. Certificate for deduction at lower rate.**—(I) <sup>4</sup>[Subject to rules made under sub-section (2A), <sup>5</sup>[where, in the case of <sup>6</sup>[any income of any person or sum payable to any person], income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, <sup>7</sup>[194,] <sup>8</sup>[194A, <sup>9</sup>[194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA <sup>10</sup>[, 194LBB, 194LBC]]] and 195, the Assessing Officer is satisfied]] that the total income <sup>11</sup>\*\*\* of the recipient justifies the deduction of income-tax <sup>12</sup>\*\*\* at any lower rates or no deduction of income-tax <sup>12</sup>\*\*\*, as the case may be, the <sup>13</sup>[Assessing Officer] shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the <sup>13</sup>[Assessing Officer], deduct income-tax <sup>14</sup>\*\*\* at the rates specified in such certificate or deduct no tax, as the case may be.

<sup>15</sup>[(2A) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (I) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

<sup>16</sup>\* \* \* \* \*

1. Ins. by Act 38 of 1993, s. 28 (w.e.f. 1-6-1993).

2. Subs. by Act 17 of 2013, s. 49, for “any income in respect of securities referred to in clause (a) of sub-section (I) of section 115AD is payable” (w.e.f. 1-6-2013).

3. Ins. by Act 32 of 2003, s. 83 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 84 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 50 (w.e.f. 1-6-1997).

4. Subs. by Act 11 of 1987, s. 51, for “Where in the case of any income of any person other than a company” (w.e.f. 1-6-1987).

5. Subs. by Act 18 of 1992, s. 76, for certain words (w.e.f. 1-6-1992).

6. Subs. by Act 32 of 2003, s. 84, for “any income of any person” (w.e.f. 1-6-2003).

7. Ins. by Act 38 of 1993, s. 29 (w.e.f. 1-6-1993).

8. Subs. by Act 32 of 2003, s. 84, for “194A, 194D, 194H, 194-I, 194K, 194L” (w.e.f. 1-6-2003).

9. Subs. by Act 23 of 2004, s. 39, for “194C, 194D, 194G, 194H, 194-I, 194J, 194K” (w.e.f. 1-10-2004).

10. Ins. by Act 28 of 2016, s. 85 (w.e.f. 1-6-2016).

11. The words “or the total world income” omitted by Act 10 of 1965, s. 48 (w.e.f. 1-4-1965).

12. The words “or super-tax” omitted by s. 48, *ibid.* (w.e.f. 1-4-1965).

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

14. The words “and super-tax” omitted by Act 10 of 1965, s. 48 (w.e.f. 1-4-1965).

15. Ins. by Act 11 of 1987, s. 51 (w.e.f. 1-6-1987).

16. Sub-section (3) omitted by Act 23 of 1986, s. 39 (w.e.f. 1-4-1987).

<sup>1</sup>[**197A. No deduction to be made in certain cases.**—(I) Notwithstanding anything contained in <sup>2\*\*\*</sup> section 194 <sup>3\*\*\*</sup> <sup>4</sup>[or section 194EE], no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in <sup>2\*\*\*</sup> section 194 <sup>5</sup>[<sup>3\*\*\*</sup> or, as the case may be, section 194EE], a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that <sup>6</sup>[the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

<sup>7</sup>[(IA)Notwithstanding anything contained in <sup>8</sup>[section 192A or section 193 or section 194A <sup>9</sup>[or section 194D] or section 194DA] <sup>10</sup>[or section 194-I] or section 194K, no deduction of tax shall be made under <sup>11</sup>[any of] the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in <sup>8</sup>[section 192A or section 193 or section 194A <sup>9</sup>[or section 194D] or section 194DA] <sup>10</sup>[or section 194-I] or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

<sup>12</sup>[(IB) The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (I) or sub-section (IA), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.]

<sup>13</sup>[(IC) Notwithstanding anything contained in <sup>14</sup>[section 192A or section 193 or section 194 or section 194A <sup>9</sup>[or section 194D] or section 194DA] or section 194EE <sup>10</sup>[or section 194-I] or section 194K or sub-section (IB) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of <sup>15</sup>[sixty years] or more at any time during the previous year<sup>16\*\*\*</sup>, if such individual furnishes to the person responsible for paying any income of the nature referred to in <sup>14</sup>[section 192A or section 193 or section 194 or section 194A <sup>9</sup>[or section 194D] or section 194DA] or section 194EE <sup>10</sup>[or section 194-I] or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

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1. Ins. by Act 14 of 1982, s. 26 (w.e.f. 1-6-1982).

2. The words and figures “section 193 or” omitted by Act 27 of 1999, s. 77 (w.e.f. 1-6-1999).

3. The words and figures “or section 194A” omitted by Act 18 of 1992, s. 77 (w.e.f. 1-6-1992).

4. Ins. by Act 49 of 1991, s. 59 (w.e.f. 1-10-1991).

5. Subs. by s. 59, *ibid.*, for “or, as the case may be, section 194A” (w.e.f. 1-10-1991).

6. Subs. by Act 12 of 1990, s. 50, for “his estimated total income of the previous year in which such income is to be included in computing his total income will be less than the minimum liable to income-tax” (w.e.f. 1-4-1990).

7. Subs. by Act 22 of 1995, s. 39, for sub-section (IA) (w.e.f. 1-7-1995).

8. Subs. by Act 20 of 2015, s. 50, for “section 193 or section 194A” (w.e.f. 1-6-2015).

9. Ins. by Act 7 of 2017, s. 70 (w.e.f. 1-6-2017).

10. Ins. by Act 28 of 2016, s. 86 (w.e.f. 1-6-2016).

11. Subs. by Act 27 of 1999, s. 77, for “either of” (w.e.f. 1-6-1999).

12. Ins. by Act 20 of 2002, s. 85 (w.e.f. 1-6-2002).

13. Ins. by Act 32 of 2003, s. 85 (w.e.f. 1-6-2003).

14. Subs. by Act 20 of 2015, s. 50, for “section 193 or section 194 or section 194A” (w.e.f. 1-6-2015).

15. Subs. by Act 23 of 2012, s. 78, for “sixty-five years” (w.e.f. 1-7-2012).

16. The words, figures and letter “and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B” omitted by Act 22 of 2007, s. 58 (w.e.f. 1-4-2006).

<sup>1</sup>[(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(a) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or

(b) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

*Explanation.*—For the purposes of this sub-section “Offshore Banking Unit” shall have the same meaning as assigned to it in clause (u) of section 2 of the Special Economic Zones Act, 2005.]

<sup>2</sup>[(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.]

<sup>3</sup>[(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in the Official Gazette, in this behalf.]

(2) The person responsible for paying any income of the nature referred to in sub-section (I) <sup>4</sup>[or sub-section (IA)] <sup>5</sup>[or sub-section (IC)] shall deliver or cause to be delivered to the <sup>6</sup>[<sup>7</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>8</sup>[Principal Commissioner or Commissioner]] one copy of the declaration referred to in sub-section (I) <sup>4</sup>[or sub-section (IA)] <sup>5</sup>[or sub-section (IC)] on or before the seventh day of the month next following the month in which the declaration is furnished to him.]

**198. Tax deductedis income received.**—All sums deducted in accordance with <sup>9</sup>[the foregoing provisions of this Chapter] shall, for the purpose of computing the income of an assessee, be deemed to be income received:

<sup>10</sup>[Provided that the sum being the tax paid, under sub-section (IA) of section 192 for the purpose of computing the income of an assessee, shall not be deemed to be income received.]

<sup>11</sup>[**199. Credit for tax deducted.**—(I) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (IA) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

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1. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

2. Ins. by Act 33 of 2009, s. 63 (w.e.f. 1-4-2009).

3. Ins. by Act 23 of 2012, s. 78 (w.e.f. 1-7-2012).

4. Ins. by Act 18 of 1992, s. 77 (w.e.f. 1-6-1992).

5. Ins. by Act 32 of 2003, s. 85 (w.e.f. 1-6-2003).

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

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

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

9. Subs. by Act 23 of 2004, s. 40, for certain words (w.e.f. 1-10-2004).

10. Ins. by Act 20 of 2002, s. 86 (w.e.f. 1-6-2002).

11. Subs. by Act 18 of 2008, s. 45, for section 199 (w.e.f. 1-4-2008).

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.]

**200. Duty of person deducting tax.**—<sup>1</sup>[(1)] Any person deducting any sum in accordance with <sup>2</sup>[the foregoing provisions of this Chapter] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

<sup>3</sup>[(2) Any person being an employer, referred to in sub-section (1A) of section 192 shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.]

<sup>4</sup>[(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.]

<sup>5</sup>[(3) Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:]

<sup>6</sup>[Provided that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority.]

<sup>7</sup>**[200A. Processing of statements of tax deducted at source.]**—(1) Where a statement of tax deduction at source <sup>8</sup>[or a correction statement] has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

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1. Section 200 re-numbered as sub-section (1) thereof by Act 20 of 2002, s. 88 (w.e.f. 1-6-2002).

2. Subs. by Act 23 of 2004, s. 42, for certain words (w.e.f. 1-10-2004).

3. Ins. by Act 20 of 2002, s. 88 (w.e.f. 1-6-2002).

4. Ins. by Act 20 of 2015, s. 51 (w.e.f. 1-6-2015).

5. Ins. by Act 23 of 2004, s. 42 (w.e.f. 1-4-2005).

6. Ins. by Act 25 of 2014, s. 60 (w.e.f. 1-10-2014).

7. Ins. by Act 33 of 2009, s. 65 (w.e.f. 1-4-2010).

8. Ins. by Act 25 of 2014, s. 61 (w.e.f. 1-10-2014).

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

<sup>1</sup>[(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor:]

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

*Explanation.*—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.]

**201. Consequences of failure to deduct or pay.**—<sup>2</sup>[(1) Where any person, including the principal officer of a company,—

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

<sup>3</sup>[Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident—

(i) has furnished his return of income under section 139;

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1. Subs. by Act 20 of 2015, s. 52, for clauses (c) to (e) (w.e.f. 1-6-2015).

2. Subs. by Act 18 of 2008, s. 46, for sub-section (1) (w.r.e.f. 1-6-2002).

3. Ins. by Act 23 of 2012, s. 79 (w.e.f. 1-7-2012).

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:]

<sup>1</sup>[Provided further that] no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.]

<sup>2</sup>[(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(i) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid,

and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200:]

<sup>1</sup>[Provided that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default under the first proviso to sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.]

(2) Where the tax has not been paid as aforesaid after it is deducted, <sup>3</sup>[the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A) shall be a charge] upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

<sup>4</sup><sup>5</sup>[(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of seven years from the end of the financial year in which payment is made or credit is given.]

(4) The provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation 1* to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).]

<sup>6</sup>[*Explanation.*—For the purposes of this section, the expression “accountant” shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288.]

**202. Deduction only one mode of recovery.**—The power to <sup>7</sup>[recover tax] by deduction under <sup>8</sup>[the foregoing provisions of this Chapter] shall be without prejudice to any other mode of recovery.

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1. Subs. by Act 23 of 2012, s. 79, for “Provided that” (w.e.f. 1-7-2012)

2. Subs. by Act 14 of 2010, s. 42, for sub-section (1A) (w.e.f. 1-7-2010).

3. Subs. by Act 13 of 1966, s. 26, for “it shall be a charge” (w.e.f. 1-4-1966).

4. Ins. by Act 33 of 2009, s. 66 (w.e.f. 1-4-2010).

5. Subs. by Act 25 of 2014, s. 62, for sub-section (3) (w.e.f. 1-10-2014). Earlier sub-section (3) was amended by Act 23 of 2012, s. 79 (w.e.f. 1-4-2010).

6. Ins. by Act 23 of 2012, s. 79 (w.e.f. 1-7-2012).

7. Subs. by Act 11 of 1987, s. 53 for “levy tax” (w.e.f. 1-6-1987).

8. Subs. by Act 23 of 2004, s. 43, for certain words, figures and letters the portion beginning with the words “the provisions of section 192” and ending with the words “section 196D” (w.e.f. 1-10-2004).

<sup>1</sup>**[203. Certificate for tax deducted.—**<sup>2</sup>*[(1)]* Every person deducting tax in accordance with <sup>3</sup>*[the foregoing provisions of this Chapter]*<sup>4</sup>*[shall, within such period as may be prescribed from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any dividend to a shareholder],* furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.]

<sup>5</sup>*[(2) Every person, being an employer, referred to in sub-section (1A) of section 192 shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.]*

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<sup>7</sup>**[203A. Tax deduction and collection account number.—***(1)* Every person, deducting tax or collecting tax in accordance with the provisions of this Chapter, who has not been allotted a tax deduction account number or, as the case may be, a tax collection account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a “tax deduction and collection account number”.

*(2)* Where a “tax deduction account number” or, as the case may be, a “tax collection account number” or a “tax deduction and collection account number” has been allotted to a person, such person shall quote such number—

*(a)* in all challans for the payment of any sum in accordance with the provisions of section 200 or sub-section (3) of section 206C;

*(b)* in all certificates furnished under section 203 or sub-section (5) of section 206C;

<sup>8</sup>*[(ba) in all the <sup>9</sup>\*\*\* statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200 or sub-section (3) of section 206C;]*

*(c)* in all the returns, delivered in accordance with the provisions of section 206 or sub-section (5A) or sub-section (5B) of section 206C to any income-tax authority; and

*(d)* in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.]

<sup>10</sup>*[(3) The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.]*

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1. Subs. by Act 20 of 1967, s. 30, for section 203, (w.e.f. 1-4-1967).

2. Section 203 renumbered as sub-section (1) thereof by Act 20 of 2002, s. 90 (w.e.f. 1-6-2002).

3. Subs. by Act 23 of 2004, s. 44, for the portion beginning with the words “the provisions of section 192” and ending with the words “section 196D” (w.e.f. 1-10-2004).

4. Subs. by Act 11 of 1987, s. 54, for “shall, at the time of credit of payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder” (w.e.f. 1-6-1987).

5. Ins. by Act 20 of 2002, s. 90 (w.e.f. 1-6-2002).

6. Sub-section (3) omitted by Act 14 of 2010, s. 43 (w.e.f. 1-4-2010).

7. Subs. by Act 23 of 2004, s. 45, for section 203A (w.e.f. 1-10-2004).

8. Ins. by Act 21 of 2006, s. 44 (w.e.f. 1-6-2006).

9. The word “quarterly” omitted by Act 33 of 2009, s. 67 (w.e.f. 1-10-2009).

10. Ins. by Act 20 of 2015, s. 53 (w.e.f. 1-6-2015).



<sup>1</sup>[**203AA. Furnishing of statement of tax deducted.**—The prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) of section 200, shall, within the prescribed time after the end of each financial year beginning on or after the <sup>2</sup>[1st day of April, 2008] prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed.]

**204. Meaning of “person responsible for paying”.**—For the purposes of <sup>3</sup>[the foregoing provisions of this Chapter] and section 285, the expression “person responsible for paying” means—

(i) in the case of payments of income chargeable under the head “Salaries”, other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof;

(ii) in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof;

<sup>4</sup>[(iii) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the <sup>5</sup>[authorised person] responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with <sup>6</sup>[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder;]

<sup>7</sup>[(iib) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;]

(iii) <sup>8</sup>[in the case of credit, or, as the case may be, payment] of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;

<sup>9</sup>[(iv) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the Government of a State, the drawing and disbursing officer or any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum.]

<sup>10</sup>[*Explanation.*—For the purposes of this section,—

(a) “non-resident Indian” and “foreign exchange asset” shall have the meanings assigned to them in Chapter XII-A;

<sup>11</sup>[(b) “authorised person” shall have the meaning assigned to it in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

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1. Ins. by Act 23 of 2004, s. 46 (w.e.f. 1-4-2005).

2. Subs. by Act 21 of 2006, s. 45, for “1st day of April, 2005” (w.e.f. 1-4-2006).

3. Subs. by Act 23 of 2004, s. 47, for certain words, figures and letter (w.e.f. 1-10-2004). Earlier to amended by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

4. Ins. by Act 23 of 1986, s. 32 (w.e.f. 1-6-1986).

5. Subs. by Act 17 of 2013, s. 50, for “authorized dealer” (w.e.f. 1-4-2013).

6. Subs. by s. 4, *ibid.*, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

7. Ins. by Act 7 of 2017, s. 71 (w.e.f. 1-4-2017).

8. Subs. by Act 20 of 1967, s. 30, for “in the case of payment” (w.e.f. 1-4-1967).

9. Ins. by Act 23 of 2012, s. 80 (w.e.f. 1-7-2012).

10. Added by Act 23 of 1986, s. 32 (w.e.f. 1-6-1986).

11. Subs. by Act 17 of 2013, s. 50, for clause (b) (w.e.f. 1-4-2013).

**205. Bar against direct demand on assessee.**—Where tax is deductible at the source under <sup>1</sup>[the foregoing provisions of this Chapter], the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

<sup>2</sup>**206. Persons deducting tax to furnish prescribed returns.**—<sup>3</sup>[(1)] The prescribed person in the case of every office of Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, every private employer and every other person <sup>4</sup>[responsible for deducting tax before the 1st day of April, 2005] under the foregoing provisions of this Chapter <sup>5</sup>[shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered] to the <sup>6</sup>[prescribed income-tax authority or such other authority or agency as may be prescribed], such returns in such form and verified in such manner and setting forth such particulars as may be prescribed:]

<sup>7</sup>[Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.]

<sup>8</sup>[(2) Without prejudice to the provisions of sub-section (1), the person responsible for deducting tax under the foregoing provisions of this Chapter <sup>9</sup>[other than the prescribed person in the case of every office of the Government and the principal officer in the case of every company] may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

<sup>10</sup>[Provided that the prescribed person in the case of every office of Government and the principal officer in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter shall, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.]

(3) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(4) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (2) is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of a company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.]

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1. Subs. by Act 23 of 2004, s. 48, for certain words, figures and letter (w.e.f. 1-10-2004).

2. Subs. by Act 11 of 1987, s. 56, for section 206 (w.e.f. 1-6-1987).

3. Section 206 renumbered as sub-section (1) by Act 26 of 1997, s. 52 (w.e.f. 1-4-1997).

4. Subs. by Act 21 of 2006, s. 46, for “responsible for deducting tax” (w.e.f. 1-4-2006).

5. Subs. by Act 49 of 1991, s. 62, for “shall prepare, within the prescribed time after the end of each financial year, and deliver or cause to be delivered” (w.e.f. 27-9-1991).

6. Subs. by Act 23 of 2004, s. 49, for “prescribed income-tax authority” (w.e.f. 1-10-2004).

7. Ins. by s. 49, *ibid.* (w.e.f. 1-10-2004).

8. Subs. by Act 32 of 2003, s. 86, for sub-sections (2) and (3) (w.e.f. 1-6-2003).

9. Subs. by Act 23 of 2004, s. 49, for “other than the principal officer in the case of every company” (w.e.f. 1-4-2005).

10. Subs. by s. 49, *ibid.*, for the proviso (w.e.f. 1-4-2005).

<sup>1</sup>[**206A. Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.**—(1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income <sup>2</sup>[not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case] by way of interest (other than interest on securities), shall prepare <sup>3</sup>[such statements for such period as may be prescribed] and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority the quarterly returns as aforesaid, in the prescribed form, verified in such manner and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

(2) The Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare and deliver or cause to be delivered <sup>4</sup>[such statements] in the prescribed form and verified in such manner and within such time as may be prescribed, to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.]

<sup>5</sup>[**206AA. Requirement to furnish Permanent Account Number.**—(1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—

- (i) at the rate specified in the relevant provision of this Act; or
- (ii) at the rate or rates in force; or
- (iii) at the rate of twenty per cent.

(2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.]

<sup>6</sup>[(7) The provisions of this section shall not apply to a non-resident, not being a company, or to a foreign company, in respect of—

- (i) payment of interest on long-term bonds as referred to in section 194LC; and
- (ii) any other payment subject to such conditions as may be prescribed.]

**206B. [Person paying dividend to certain residents without deduction of tax to furnish prescribed return].**—*Omitted by the Finance (No. 2) Act, 1996(33 of 1996), s. 51(w.e.f. 1-10-1996).*

1. Ins. by Act 18 of 2005, s. 52 (w.e.f. 1-6-2005).

2. Subs. by Act 22 of 2007, s. 60, for “not exceeding five thousand rupees” (w.e.f. 1-6-2007).

3. Subs. by Act 33 of 2009, s. 68, for “quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year” (w.e.f. 1-10-2009).

4. Subs. by s. 68, *ibid.*, for “quarterly returns” (w.e.f. 1-10-2009).

5. Ins. by s. 69, *ibid.* (w.e.f. 1-4-2010).

6. Subs. by Act 28 of 2016, s. 87, for sub-section (7) (w.e.f. 1-6-2016).

**206C. Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.**—<sup>2</sup>[(1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

<sup>3</sup>[TABLE

<i>Sl. No.</i>	<i>Nature of goods</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Alcoholic Liquor for human consumption	One per cent
(ii)	Tendu leaves	Five per cent
(iii)	Timber obtained under a forest lease	Two and one-half per cent
(iv)	Timber obtained by any mode other than under a forest lease	Two and one-half per cent
(v)	Any other forest produce not being timber or tendu leaves	Two and one-half per cent
(vi)	Scrap	One per cent]
<sup>4</sup> [(vii)	Minerals, being coal or lignite or iron ore	One per cent:]

<sup>5</sup>[Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Act, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.]]

<sup>6</sup>[(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things <sup>4</sup>[or for the purposes of generation of power] and not for trading purposes.

1. Ins. by 26 of 1988, s. 40 (w.e.f. 1-6-1988).

2. Subs. by Act 18 of 1992, s. 79, for sub-section (1) (w.e.f. 1-4-1992). Earlier sub-section (1) amended by Act 3 of 1989, s. 34 (w.e.f. 1-6-1988).

3. Subs. by Act 54 of 2003, s. 9, for the Table (w.e.f. 8-9-2003). Earlier substitution by 18 of 1992, s. 75 (w.e.f. 1-4-1992), as so amended by Act 32 of 2003, s. 86 (w.e.f. 1-6-2003).

4. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

5. Subs. by Act 54 of 2003, s. 9, for the proviso (w.e.f. 8-9-2003).

6. Ins. by s. 9, *ibid.* (w.e.f. 8-9-2003).

(1B) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the <sup>1</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>2</sup>[Principal Commissioner or Commissioner] one copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.]

<sup>3</sup>[(1C) Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter in this section referred to as “licensee or lessee”) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

<i>Sl. No.</i>	<i>Nature of contract or licence or lease, etc.</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Parking lot	Two per cent.
(ii)	Toll plaza	Two per cent.
(iii)	Mining and quarrying	Two per cent.]

<sup>4</sup>[*Explanation 1.*—For the purposes of this sub-section, “mining and quarrying” shall not include mining and quarrying of mineral oil.

*Explanation 2.*—For the purposes of *Explanation 1*, “mineral oil” includes petroleum and natural gas.]

<sup>5</sup>\* \* \* \* \*

(1F) Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to one per cent of the sale consideration as income-tax.]

(2) The power to recover tax by collection under sub-section (1) <sup>3</sup>[or sub-section (1C)] <sup>6</sup>\*\*\*shall be without prejudice to any other mode of recovery.

(3) Any person collecting any amount under sub-section (1) <sup>3</sup>[or sub-section (1C)] <sup>6</sup>\*\*\*shall pay within <sup>7</sup>[the prescribed time] the amount so collected to the credit of the Central Government or as the Board directs:

<sup>8</sup>[Provided that the person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, <sup>9</sup>[prepare such statements for such period as may be prescribed] and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.]

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

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

3. Ins. by Act 23 of 2004, s. 50 (w.e.f. 1-10-2004).

4. The *Explanations* ins. by Act 22 of 2007, s. 61 (w.e.f. 1-6-2007).

5. Sub-sections (1D) and (1E) omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

6. The words “or sub-section (1D)” omitted by s. 72, *ibid.* (w.e.f. 1-4-2017).

7. Subs. by Act 54 of 2003, s. 9, for “seven days” (w.e.f. 8-9-2003).

8. Ins. by Act 23 of 2003, s. 50 (w.e.f. 1-4-2005).

9. Subs. by Act 33 of 2009, s. 70, for “prepare quarterly statements for the period ending on the 30<sup>th</sup> June, the 30<sup>th</sup> September, the 31<sup>st</sup> December and the 31<sup>st</sup> March in each financial year” (w.e.f. 1-10-2009).



<sup>1</sup>[Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.]

<sup>2</sup>[(5B) Without prejudice to the provisions of sub-section (5A), any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, may at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that where the person collecting tax is a company or the Central Government or a State Government, such person shall, in accordance with the provisions of this section, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(5C) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein.

(5D) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (5B) is defective, he may intimate the defect to the person collecting tax and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.]

(6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (3).

<sup>3</sup>[(6A) If any person responsible for collecting tax in accordance with the provisions of this section does not collect the whole or any part of the tax or after collecting, fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax:

<sup>4</sup>[Provided that any person<sup>5</sup>\*\*\*responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

(i) has furnished his return of income under section 139;

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1. Ins. by Act 23 of 2004, s. 50 (w.e.f. 1-10-2004).

2. Subs. by s. 50, *ibid.*, for sub-sections (5B) and (5C) (w.e.f. 1-4-2005).

3. Ins. by Act 21 of 2006, s. 47 (w.e.f. 1-4-2007).

4. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

5. The words “, other than a person referred to in sub-section (1D),” omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

(ii) has taken into account such amount for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:]

<sup>1</sup>[Provided further that] no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without good and sufficient reasons failed to collect and pay the tax.]

(7) Without prejudice to the provisions of sub-section (6), if the <sup>2</sup>[person responsible for collecting tax] does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of <sup>3</sup>[one per cent.] per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid <sup>4</sup>[and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3)]:

<sup>5</sup>[Provided that in case any person<sup>6\*\*\*</sup>responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee.]

(8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the <sup>2</sup>[person responsible for collecting tax].]

<sup>7</sup>[(9) Where the Assessing Officer is satisfied that the total income of the <sup>8</sup>[buyer or licensee or lessee] justifies the collection of the tax at any lower rate than the relevant rate specified in sub-section (1) <sup>9</sup>[or sub-section (1C)] <sup>10\*\*\*</sup>, the Assessing Officer shall, on an application made by the buyer or licensee or lessee in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in sub-section (1) <sup>9</sup>[or sub-section (1C)] <sup>10\*\*\*</sup>.

(10) Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate.

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1. Subs. by Act 23 of 2012, s. 81, for "Provided that" (w.e.f. 1-7-2012).

2. Subs. by Act 21 of 2006, s. 47, for "seller" (w.e.f. 1-4-2007).

3. Subs. by Act 54 of 2003, s. 9, for "one and one-fourth per cent." (w.e.f. 8-9-2003).

4. Ins. by Act 21 of 2006, s. 47 (w.e.f. 1-6-2006).

5. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

6. The words "other than a person referred to in sub-section (1D)," omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

7. Ins. by Act 27 of 1999, s. 80 (w.e.f. 1-6-1999).

8. Subs. by Act 23 of 2004, s. 50, for "buyer" (w.e.f. 1-10-2004).

9. Ins. by s. 50, *ibid.* (w.e.f. 1-10-2004).

10. The words "or sub-section (1D)" omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).



(11) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (9) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

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

<sup>2</sup>[(a) “accountant” shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288;

(aa) “buyer” with respect to—

(i) sub-section (1) means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (1) or the right to receive any such goods but does not include,—

(A) a public sector company, the Central Government, a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(B) a buyer in the retail sale of such goods purchased by him for personal consumption;

<sup>3</sup>\* \* \* \*

<sup>4</sup>[(iii) sub-section (1F) means a person who obtains in any sale, goods of the nature specified in the said sub-section, but does not include,—

(A) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(B) a local authority as defined in *Explanation* to clause (20) of section 10; or

(C) a public sector company which is engaged in the business of carrying passengers.]

<sup>5</sup>\* \* \* \*

<sup>6</sup>[(b) “scrap” means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;]

(c) “seller” means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in sub-section (1) <sup>7</sup>[are sold].

1. Ins. by Act 18 of 1992, s. 79 (w.e.f. 1-4-1992).

2. Subs. by Act 23 of 2012, s. 81, for clause (a) (w.e.f. 1-7-2012).

3. Sub-clause (ii) omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

4. Ins. by s. 72, *ibid.* (w.e.f. 1-4-2017).

5. Clause (ab) omitted by s. 72, *ibid.* (w.e.f. 1-4-2017).

6. Subs. by Act 32 of 2003, s. 87, for clause (b) (w.e.f. 1-6-2003).

7. Subs. by Act 7 of 2017, s. 72, for “or sub-section (1D) are sold or services referred to in sub-section (1D) are provided” (w.e.f. 1-4-2017).

<sup>1</sup>**[206CA. Tax collection account number.—**(1) Every person collecting tax in accordance with the provisions of section 206C, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a tax collection account number.

(2) Where a tax collection account number has been allotted to a person, such person shall quote such number—

(a) in all challans for the payment of any sum in accordance with the provisions of sub-section (3) of section 206C;

(b) in all certificates furnished under sub-section (5) of section 206C;

(c) in all the returns delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to any income-tax authority; and

(d) in all other documents pertaining to such transactions as may be prescribed in the interest of revenue:]

<sup>2</sup>[Provided that the provisions of this section shall not apply on or after the 1st day of October, 2004.]

<sup>3</sup>**[206CB. Processing of statements of tax collected at source.—**(1) Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:—

(a) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement;

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the collector in pursuance of the determination under clause (d) shall be granted to the collector:

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed.

*Explanation.—*For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

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1. Ins. by Act 20 of 2002, s. 91 (w.e.f. 1-6-2002).

2. Ins. by Act 23 of 2004, s. 51 (w.e.f. 1-10-2004).

3. Ins. by Act 20 of 2015, s. 55 (w.e.f. 1-6-2015).

(ii) in respect of rate of collection of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) The Board may make a scheme for centralised processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).]

<sup>1</sup>[**206CC. Requirement to furnish Permanent Account number by collectee.**—(1) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—

(i) at twice the rate specified in the relevant provision of this Act; or

(ii) at the rate of five per cent.

(2) No declaration under sub-section (1A) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under sub-section (9) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (1) shall apply accordingly.

(7) The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

*Explanation.*—For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.]

<sup>2</sup>[**207. Liability for payment of advance tax.**—<sup>3</sup>[(1)] Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as “current income”.

<sup>4</sup>[(2) The provisions of sub-section (1) shall not apply to an individual resident in India, who—

(a) does not have any income chargeable under the head “Profits and gains of business or profession”; and

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1. Ins. by Act 7 of 2017, s. 73 (w.e.f. 1-4-2017).

2. Subs. by Act 4 of 1988, s. 76, for sections 207 and 208 (w.e.f. 1-4-1988). Earlier amended by Act 16 of 1972, s. 33 (w.e.f. 1-4-1972).

3. Section 207 renumbered as sub-section (1) thereof by Act 23 of 2012, s. 82 (w.e.f. 1-4-2012).

4. Ins. by s. 82, *ibid.* (w.e.f. 1-4-2012).

(b) is of the age of sixty years or more at any time during the previous year.]

**208. Conditions of liability to pay advance tax.**—Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ten thousand rupees or more.]

**209. Computation of advance tax.**—<sup>1</sup>[(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows, namely:—

(a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(d) the income-tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income-tax which would be <sup>2</sup>[deductible or collectible at source] during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable:]

<sup>3</sup>[Provided that for computing liability for advance tax, income-tax calculated under clause (a) or clause (b) or clause (c) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without deduction of tax or it has been received or debited by the person responsible for collecting tax without collection of such tax.]

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1. Subs. by Act 4 of 1988, s. 77, for sub-section (1) (w.e.f. 1-4-1988).

2. Subs. by Act 3 of 1989, s. 35, for “deductible at source” (w.r.e.f. 1-6-1988).

3. Ins. by Act 23 of 2012, s. 83 (w.e.f. 1-4-2012).

<sup>1</sup>[(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessee, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

(a) in cases <sup>2</sup>[where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210],—

(i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

<sup>3</sup>[(ii) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;]

<sup>4</sup>[(b) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.]

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the <sup>5</sup>[Assessing Officer] shall, for making an order under <sup>6</sup>[sub-section (3) or sub-section (4) of section 210] in the case of any such Hindu undivided family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(a) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case;

(b) in a case where the total income of the previous year <sup>7</sup>[in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142] forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case.]

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1. Ins. by Act 20 of 1974, s. 11 (w.e.f. 1-4-1974).

2. Subs. by Act 4 of 1988, s. 77, for “where the assessee sends a statement under sub-section (1) of section 209A or where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210” (w.e.f. 1-4-1988).

3. Subs. by s. 77, *ibid.*, for sub-clause (ii) (w.e.f. 1-4-1988).

4. Subs. by s. 77, *ibid.*, for clause (b) (w.e.f. 1-4-1988).

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

6. Subs. by s. 77, *ibid.*, for “under section 210” (w.e.f. 1-4-1988).

7. Subs. by s. 77, *ibid.*, for “on the basis of which tax has been paid by the Hindu undivided family under section 140A” (w.e.f. 1-4-1988).

**209A. [Computation and payment of advance tax by assessee.]** *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 78 (w.e.f. 1-4-1988). Original section was inserted by the Finance Act, 1978 (19 of 1978), s. 24 (w.e.f. 1-6-1978).*

<sup>1</sup>**[210. Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.]**—(1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year, <sup>2\*\*\*\*</sup> the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.]

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1. Subs. by Act 4 of 1988, s. 79, for section 210 (w.e.f. 1-4-1988).

2. The words “and who has not paid any advance tax under sub-section (1)” omitted by Act 20 of 2002, s. 92 (w.e.f. 1-6-2002).

<sup>1</sup>[**211. Instalments of advance tax and due dates.**—<sup>2</sup>(1) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

(a) all the assesseees, other than the assessee referred to in clause (b), who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below:

TABLE

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax, as reduced by the amount of amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

(b) <sup>3</sup>[an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be], to the extent of the whole amount of such advance tax during each financial year on or before the 15th March:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.]

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.]

**212. [Estimate by assessee.]** *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 81 (w.e.f. 1-4-1988).*

**213. [Commission receipts.]** *Omitted by s.81, ibid. (w.e.f. 1-4-1988).*

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1. Subs. by Act 4 of 1988, s. 80, for section 211 (w.e.f. 1-4-1988).

2. Subs. by Act 28 of 2016, s. 89, for sub-section (1) (w.e.f. 1-6-2016).

3. Subs. by Act 7 of 2017, s. 74, for “an eligible assessee in respect of an eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

**214. Interest payable by Government.**—<sup>1</sup>(1) The Central Government shall pay simple interest at [fifteen per cent.] per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the <sup>2</sup>[assessed tax] from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year, during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment:

<sup>3</sup>[Provided that in respect of any amount refunded on a provisional assessment under section 141A, no interest shall be paid for any period after the date of such provisional assessment.]

<sup>4</sup>[(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 <sup>5</sup>[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the <sup>6</sup>[Assessing Officer] shall serve on the assessee, a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.]

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made.

<sup>7</sup>[(3) This section and sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (1A) and sub-section (3) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

<sup>8</sup>[*Explanation 1.*—In this section, “assessed tax” shall have the same meaning as in sub-section (5) of section 215.

*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.]

**215. Interest payable by assessee.**—<sup>9</sup>[(1)Where, in any financial year, an assessee has paid <sup>10</sup>[advance tax under section 209A or section 212 on the basis of his own estimate (including revised

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1. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

2. Subs. by s. 35, *ibid.*, for “tax determined on regular assessment” (w.e.f. 1-4-1985).

3. Added by Act 19 of 1968, s. 16 (w.e.f. 1-4-1968).

4. Subs. by Act 67 of 1984, s. 35, for sub-section (1A) (w.e.f. 1-4-1985).

5. Ins. by Act 4 of 1988, s. 82 (w.e.f. 1-4-1989).

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

7. Ins. by s. 82, *ibid.* (w.e.f. 1-4-1989).

8. Ins. by Act 67 of 1984, s. 35 (w.e.f. 1-4-1985).

9. Subs. by Act 14 of 1969, s. 18, for sub-section (1) (w.e.f. 1-4-1970).

10. Subs. by Act 19 of 1978, s. 27, for “advance tax under section 212 on the basis of his own estimate” (w.e.f. 1-6-1978).



estimate)], and the advance tax so paid is less than seventy-five per cent. of the assessed tax, simple interest at the rate of<sup>1</sup>[fifteen per cent.] per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the assessed tax:]

<sup>2</sup>[Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent.”, the words “eighty-three and one-third per cent.” had been substituted.]

<sup>3</sup>[(2) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is so paid ; and

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the assessed tax.]

<sup>4</sup>[(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264<sup>5</sup>[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the <sup>6</sup>[Assessing Officer] shall serve on the assessee, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.]

(4) In such cases and under such circumstances as may be prescribed, the <sup>6</sup>[Assessing Officer] may reduce or waive the interest payable by the assessee under this section.

<sup>7</sup>[(5) In this section and sections 217 and 273, “assessed tax” means the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 194, <sup>8</sup>[section 194A, section 194C] <sup>9</sup>[, section 194D] <sup>10</sup>[, section 195 and section 196A] so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made.]

<sup>11</sup>[(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273.]

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1. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

2. Ins. by Act 44 of 1980, s. 32 (w.e.f. 1-9-1980).

3. Subs. by Act 42 of 1970, s. 37, for sub-section (2) (w.e.f. 1-4-1971).

4. Subs. by Act 67 of 1984, s. 36, for sub-section (3) (w.e.f. 1-4-1985).

5. Ins. by Act 4 of 1988, s. 83 (w.e.f. 1-4-1989).

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

7. Ins. by Act 14 of 1969, s. 18 (w.e.f. 1-4-1970).

8. Subs. by Act 16 of 1972, s. 38, for “section 194A” (w.e.f. 1-4-1972).

9. Ins. by Act 21 of 1973, s. 19 (w.e.f. 1-4-1973).

10. Subs. by Act 3 of 1989, s. 33, for “and section 195” (w.e.f. 1-4-1989).

11. Ins. by Act 67 of 1984, s. 36 (w.e.f. 1-4-1985).

**216. Interest payable by assessee in case of under-estimate, etc.**—Where, on making the regular assessment, the <sup>1</sup>[Assessing Officer] finds that any assessee has—

<sup>2</sup>[(a) under <sup>3</sup>[section 209A or section 212] under-estimated the advance tax payable by him and thereby reduced the amount payable in either of the first two instalments; or

(b) under section 213 wrongly deferred the payment of advance tax on a part of his income;

he may direct that the assessee shall pay simple interest at <sup>4</sup>[fifteen per cent.] per annum—

(i) in the case referred to in clause (a), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year; and

(ii) in the case referred to in clause (b), for the period during which the payment of advance tax was so deferred.

*Explanation.*—For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

**217. Interest payable by assessee when no estimate made.**—<sup>5</sup>[(1) Where, on making the regular assessment, <sup>6</sup>[the <sup>1</sup>[Assessing Officer] finds—

(a) that any such person as is referred to in clause (a) of sub-section (1) of section 209A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (2) of that section; or

(b) that any such person as is referred to in clause (b) of sub-section (1) of section 209A has not sent the estimate referred to in that clause,

simple interest at the rate of <sup>4</sup>[fifteen per cent.] per annum] from the 1st day of April next following the financial year in which the advance tax was payable in accordance with <sup>7</sup>[the said sub-section (1) or sub-section (2)] up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the assessed tax as defined in sub-section (5) of section 215.

(1A) Where, on making the regular assessment, the <sup>1</sup>[Assessing Officer] finds that <sup>8</sup>[any person who is required to send an estimate under sub-section (4) of section 209A or] any such person as is referred to in sub-section (3A) of section 212 has not sent the estimate referred to therein, simple interest at the rate of <sup>4</sup>[fifteen per cent.] per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with <sup>9</sup>[the said sub-section (4) or, as the case may be, sub-section (3A)] up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax paid by him falls short of the assessed tax as defined in sub-section (5) of section 215.]

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

<sup>2</sup> Subs. by Act 14 of 1969, s. 19, for clause (a) (w.e.f. 1-4-1970).

3. Subs. by Act 19 of 1978, s. 28, for “sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212” (w.e.f. 1-6-1978).

4. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984). Earlier the quoted words were substituted by Act 16 of 1972, s. 25 for “nine per cent.” (w.e.f. 1-4-1972).

5. Subs. by Act 14 of 1969, s. 20, for sub-section (1) (w.e.f. 1-4-1970).

6. Subs. by Act 19 of 1978, s. 29, for “the Income-tax Officer finds that any such person as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein, simple interest at the rate of twelve per cent. per annum” (w.e.f. 1-6-1978).

7. Subs. by s. 29, *ibid.*, for “the said sub-section” (w.e.f. 1-6-1978).

8. Ins. by s. 29, *ibid.* (w.e.f. 1-6-1978).

9. Subs. by s. 29, *ibid.*, for “the said sub-section” (w.e.f. 1-6-1978).

(2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section.

<sup>1</sup>[**218. When assessee deemed to be in default.**—If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.]

**219. Credit for advance tax.**—Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

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#### *D.—Collection and recovery*

**220. When tax payable and when assessee deemed in default.**—(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within <sup>3</sup>[thirty days] of the service of the notice at the place and to the person mentioned in the notice :

Provided that, where the <sup>4</sup>[Assessing Officer] has any reason to believe that it will be detrimental to revenue if the full period of <sup>3</sup>[thirty days] aforesaid is allowed, he may, with the previous approval of the <sup>5</sup>[Joint Commissioner], direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of <sup>3</sup>[thirty days] aforesaid, as may be specified by him in the notice of demand.

<sup>6</sup>[(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).]

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at <sup>7</sup><sup>8</sup>[one per cent.] for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid]:

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1. Subs. by Act 4 of 1988, s. 84, for section 218 (w.e.f. 1-4-1988). Earlier section 218 was amended by Act 21 of 1979, s. 19 (w.e.f. 1-4-1979) which was substituted by Act 19 of 1978, s. 30 (w.e.f. 1-6-1978).
  2. The proviso omitted by s. 126, *ibid.* (w.e.f. 1-4-1989).
  3. Subs. by s. 85, *ibid.*, for “thirty-five days” (w.e.f. 1-4-1989).
  4. Subs. by s. 2, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).
  5. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998). Earlier the quoted words were substituted by Act 4 of 1988, s. 2, for “Inspecting Assistant Commissioner” (w.e.f. 1-4-1988).
  6. Ins. by Act 25 of 2014, s. 64 (w.e.f. 1-10-2014).
  7. Subs. by Act 4 of 1988, s. 85 for “fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)” (w.e.f. 1-4-1989).
  8. Subs. by Act 54 of 2003, s. 10, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier the quoted words were subs. by Act 14 of 2001, s. 76, for “one and one-half per cent.” (w.e.f. 1-6-2001).

<sup>1</sup>[Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 <sup>2</sup>[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded:]

<sup>3</sup>[Provided further that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid:]

<sup>2</sup><sup>4</sup>[Provided also] that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent for every month or part of a month.]

<sup>5</sup>[(2A) Notwithstanding anything contained in sub-section (2), <sup>6</sup>[the <sup>7</sup><sup>8</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>9</sup>[Principal Commissioner or Commissioner]] may] reduce or waive the amount of <sup>10</sup>[interest paid or payable by an assessee] under the said sub-section if, <sup>11</sup>[he is satisfied] that—

(i) payment of such amount <sup>12</sup>[has caused or would cause genuine hardship] to the assessee;

(ii) default in the payment of the amount on which <sup>13</sup>[interest has been paid or was payable] under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:]

<sup>14</sup>[Provided that the order accepting or rejecting the application of the assessee, either in full or in part, shall be passed within a period of twelve months from the end of the month in which the application is received:

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1. Ins. by Act 13 of 1963, s. 14 (w.r.e.f. 1-4-1962).

2. Ins. by Act 4 of 1988, s. 85 (w.e.f. 1-4-1989).

3. Ins. by Act 25 of 2014, s. 64 (w.e.f. 1-10-2014).

4. Subs. by s. 64, *ibid.*, for “Provided further” (w.e.f. 1-10-2014).

5. Ins. by Act 67 of 1984, s. 37 (w.e.f. 1-10-1984).

6. Subs. by Act 46 of 1986, s. 13, for “the Board may” (w.e.f. 1-4-1987).

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

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

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

10. Subs. by Act 46 of 1986, s. 13, for “interest payable by an assessee” (w.r.e.f. 1-10-1984).

11. Subs. by s. 13, *ibid.*, for “on the recommendation made by the Commissioner in this behalf, if is satisfied” (w.e.f. 1-4-1987).

12. Subs. by s. 13, *ibid.*, for “would cause genuine hardship” (w.r.e.f. 1-10-1984).

13. Subs. by s. 13, *ibid.*, for “interest was payable” (w.r.e.f. 1-10-1984).

14. Ins. by Act 28 of 2016, s. 90 (w.e.f. 1-6-2016).

Provided further that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided also that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.]

<sup>1</sup>[(2B) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (1A) of section 201 on the amount of tax specified in the intimation issued under sub-section (1) of section 200A for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.]

<sup>2</sup>[(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.]

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the <sup>3</sup>[Assessing Officer] may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 246 <sup>4</sup>[or section 246A] the <sup>3</sup>[Assessing Officer] may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the <sup>3</sup>[Assessing Officer] shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

*Explanation.*—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

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1. Ins. by Act 23 of 2012, s. 84 (w.e.f. 1-7-2012).

2. Ins. by Act 20 of 2015, s. 56 (w.e.f. 1-6-2015).

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

4. Ins. by Act 10 of 2000, s. 62 (w.e.f. 1-6-2000).

**221. Penalty payable when tax in default.**—<sup>1</sup>[(1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the <sup>2</sup>[Assessing Officer] may direct, and in the case of a continuing default, such further amount or amounts as the <sup>2</sup>[Assessing Officer] may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard:

<sup>3</sup>[Provided further that where the assessee proves to the satisfaction of the <sup>2</sup>[Assessing Officer] that the default was for good and sufficient reasons, no penalty shall be levied under this section.]]

<sup>4</sup>[*Explanation.*—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.]

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

**222. Certificate to Tax Recovery Officer.**—(1) <sup>5</sup>[When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as “certificate”) and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—]

(a) attachment and sale of the assessee’s movable property;

(b) attachment and sale of the assessee’s immovable property;

(c) arrest of the assessee and his detention in prison;

(d) appointing a receiver for the management of the assessee’s movable and immovable properties.

<sup>6</sup>[*Explanation.*—For the purposes of this sub-section, the assessee’s movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son’s wife or son’s minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son’s minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son’s minor child, as the case may be, continue to be included in the assessee’s movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.]

<sup>7</sup>[(2) The Tax Recovery Officer may take action under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.]

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1. Subs. by Act 42 of 1970, s. 38, for sub-section (1) (w.e.f. 1-4-1971).

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

3. Subs. by Act 46 of 1986, s. 14, for the second proviso (w.e.f. 10-9-1986).

4. Ins. by Act 41 of 1975, s. 53 (w.e.f. 1-10-1975).

5. Subs. by Act 4 of 1988, s. 86, for certain words (w.e.f. 1-4-1989).

6. Ins. by Act 41 of 1975, s. 54 (w.e.f. 1-10-1975).

7. Subs. by Act 4 of 1988, s. 86, for sub-section (2) (w.e.f. 1-4-1989).

<sup>1</sup>[**223. Tax Recovery Officer by whom recovery is to be effected.**—(1) The Tax Recovery Officer competent to take action under section 222 shall be—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the <sup>2</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>3</sup>[Principal Commissioner or Commissioner] who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

**224. Validity of certificate and cancellation or amendment thereof.**—It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

**225. Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.**—(1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.]

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1. Subs. by Act 4 of 1988, s. 87, for sections 223, 224 and 225 (w.e.f. 1-4-1989).

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

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

**226. Other modes of recovery.**—<sup>1</sup>[(1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(1A) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.]

(2) If any assessee is in receipt of any income chargeable under the head “Salaries”, the <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer] may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs:

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this sub-section.

(3) (i) The <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer] may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer] either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer], and in the case of a joint account to all the joint holders at their last addresses known to the <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer].

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the <sup>2</sup>[Assessing Officer] <sup>3</sup>[or Tax Recovery Officer] to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee’s liability for any sum due under this Act, whichever is less.

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1. Subs. by Act 4 of 1988, s. 88, for sub-section (1) (w.e.f. 1-4-1989).

2. Subs. by Act 3 of 1989, s. 36, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Ins. by s. 37, *ibid* (w.e.f. 1-4-1989).



(vii) The <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer] may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer] shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer] to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer], he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.

(4) The <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer] may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.

<sup>3</sup>[(5) The <sup>1</sup>[Assessing Officer] <sup>2</sup>[or Tax Recovery Officer] may, if so authorised by the <sup>4</sup>[<sup>5</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>6</sup>[Principal Commissioner or Commissioner]] by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner laid down in the Third Schedule.]

**227. Recovery through State Government.**—If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof; that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

**228. [Recovery of Indian tax in Pakistan and Pakistan tax in India.]** *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 89 (w.e.f. 1-4-1989).*

<sup>7</sup>[**228A. Recovery of tax in pursuance of agreements with foreign countries.**—(1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax

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1. Subs. by Act 3 of 1989, s. 36, for "Income-tax Officer" (w.e.f. 1-4-1988).

2. Ins. by s. 37, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by Act 10 of 1965, s. 54, for sub-section (5) (w.e.f. 1-4-1965).

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

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

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

7. Ins. by Act 16 of 1972, s. 39 (w.e.f. 1-4-1972).

Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(a) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount <sup>1</sup>[specified in a certificate drawn up by him under section 222]; and

(b) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

<sup>2</sup>[(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.]]

**229. Recovery of penalties, fine, interest and other sums.**—Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

**230. Tax clearance certificate.**—<sup>3</sup>[(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (i) or the person referred to in clause (ii), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section (1) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(a) the permanent account number allotted to him under section 139A:

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1. Subs. by Act 4 of 1988, s. 90, for “specified in a certificate received from an Assessing Officer” (w.e.f. 1-4-1989).

2. Subs. by s. 90, *ibid.*, for sub-section (2) (w.e.f. 1-4-1989).

3. Subs. by Act 32 of 2003, s. 88, for sub-section (1) (w.e.f. 1-6-2003).

Provided that in case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

(b) the purpose of his visit outside India;

(c) the estimated period of his stay outside India:

Provided that no person—

(i) who is domiciled in India at the time of his departure; and

(ii) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 1987), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the <sup>1</sup>[Principal Chief Commissioner or Chief Commissioner] of Income-tax.]

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) <sup>2</sup>[or the first proviso to sub-section (1A)] applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the <sup>3</sup>[Assessing Officer] may, having regard to the circumstances of the case, determine.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax.

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

*Explanation.*—For the purposes of this section, the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

**230A. [Restrictions on registration of transfers of immovable property in certain cases.]**—*Omitted by the Finance Act, 2001 (14 of 2001), s. 77 (w.e.f. 1-6-2001).*

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

2. Ins. by Act 54 of 2003, s. 11 (w.e.f. 1-6-2003).

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

**231. [Period for commencing recovery proceedings.]**—*Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 93 (w.e.f. 1-4-1989).*

**232. Recovery by suit or under other law not affected.**—The several modes of recovery specified in this Chapter shall not affect in any way—

(a) any other law for the time being in force relating to the recovery of debts due to Government;  
or

(b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee;

and it shall be lawful for the <sup>1</sup>[Assessing Officer] or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter.

*E.—Tax payable under provisional assessment*

**233. [Recovery of tax payable under provisional assessment.]**—*Omitted by the Taxation Laws (Amendment) Act, 1970 (42 of 1970), s. 39 (w.e.f. 1-4-1971).*

**234. [Tax paid by deduction or advance payment.]**—*Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 126 (w.e.f. 1-4-1989).*

<sup>2</sup>[*F.—Interest chargeable in certain cases*

**234A. Interest for defaults in furnishing return of income.**—(1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of <sup>3</sup>[one per cent.] for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

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

(b) where no return has been furnished, ending on the date of completion of the assessment under section 144,

<sup>4</sup>[on the amount of the tax on the total income as determined under sub-section (1) of section 143, and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the amount of,—

(i) advance tax, if any, paid;

(ii) any tax deducted or collected at source;

(iii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iv) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(v) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

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

2. Ins. by s. 94, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by Act 54 of 2003, s. 12, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier substitution by Act 27 of 1999, s. 81 (w.e.f. 1-6-1999).

4. Subs. by Act 21 of 2006, s. 48, for “on the amount of the tax on the total income as determined under sub-section (1) of section 143 or on regular assessment as reduced by the advance tax, if any, paid and any tax deducted or collected at source” (w.e.f. 1-4-2007). Earlier were amended by 3 of 1989, s. 38 (w.e.f. 1-4-1989).

(vi) any tax credit allowed to be set off in accordance with the provisions of section 115JAA <sup>1</sup>[or section 115JD].]

*Explanation 1.*—In this section, “due date” means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.

<sup>2</sup>[*Explanation 2.*—In this sub-section, “tax on the total income as determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

*Explanation 3.*—Where, in relation to an assessment year, an assessment is made for the first time <sup>3</sup>[under section 147 or section 153A], the assessment so made shall be regarded as a regular assessment for the purposes of this section.

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

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

(3) Where the return of income for any assessment year, required <sup>3</sup>[by a notice under section 148 or section 153A] issued <sup>5</sup>[after the determination of income under sub-section (1) of section 143 or] after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of <sup>6</sup>[one per cent.] for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

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

(b) where no return has been furnished, ending on the date of completion of the reassessment or recomputation under section 147 <sup>7</sup>[or reassessment under section 153A],

on the amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total <sup>8</sup>[income determined under sub-section (1) of section 143 or on the basis of the earlier assessment aforesaid].

<sup>9</sup>\* \* \* \* \*

(4) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

1. Ins. by Act 23 of 2012, s. 85 (w.e.f. 1-4-2013).

2. Subs. by Act 3 of 1989, s. 38, for Explanation (w.e.f. 1-4-1989).

3. Subs. by Act 32 of 2003, s. 89, for “under section 147” (w.e.f. 1-6-2003).

4. *Explanation* omitted by Act 14 of 2001, s. 78 (w.r.e.f. 1-4-1989).

5. Ins. by Act 3 of 1989, s. 38 (w.e.f. 1-4-1989).

<sup>6</sup> Subs. by Act 54 of 2003, s. 12, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier substitution by Act 27 of 1999, s. 81 (w.e.f. 1-6-1999).

7. Ins. by Act 32 of 2003, s. 89 (w.e.f. 1-6-2003).

8. Subs. by Act 3 of 1989, s. 38, for “income determined on the basis of the earlier assessment aforesaid” (w.e.f. 1-4-1989).

9. The *Explanation* omitted by s. 38, *ibid.* (w.e.f. 1-4-1989).

**234B. Interest for defaults in payment of advance tax.**—(1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of <sup>1</sup>[one per cent.] for every month or part of a month comprised in the period from the 1st day of April next following such financial year <sup>2</sup>[to the date of determination of total income under sub-section (1) of section 143 <sup>3</sup>[and where a regular assessment is made, to the date of such regular assessment, on an amount]] equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

<sup>4</sup>[*Explanation 1.*—In this section, “assessed tax” means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA <sup>5</sup>[or section 115JD].]

*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time <sup>6</sup>[under section 147 or section 153A], the assessment so made shall be regarded as a regular assessment for the purposes of this section.

<sup>7</sup>[*Explanation 3.*—In *Explanation 1* and in sub-section (3) “tax on the total income determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

(2) Where, before the date of <sup>8</sup>[determination of total income under sub-section (1) of section 143 or] completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

1. Subs. by Act 54 of 2003, s. 13, for “one and one-fourth per cent.” (w.e.f. 8-9-2003).

2. Subs. by Act 3 of 1989, s. 39, for “to the date of the regular assessment” (w.e.f. 1-4-1989).

3. Subs. by Act 22 of 1995, s. 42, for “or regular assessment, on an amount” (w.e.f. 1-4-1989).

4. Subs. by Act 21 of 2006, s. 49, for *Explanation 1* (w.e.f. 1-4-2007).

5. Ins. by Act 23 of 2012, s. 86 (w.e.f. 1-4-2013).

6. Subs. by Act 32 of 2003, s. 90, for “under section 147” (w.e.f. 1-6-2003).

7. Subs. by Act 3 of 1989, s. 39, for *Explanation 3* (w.e.f. 1-4-1989).

8. Ins. by s. 39, *ibid* (w.e.f. 1-4-1989).

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

<sup>1</sup>[(2A) (a) where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;

(b) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C;

(c) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly;]

<sup>2</sup>[(3) where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be;]

(4) where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 <sup>3\*\*\*\*</sup>, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded;

(5) the provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

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1. Ins. by Act 20 of 2015, s. 57 (w.e.f. 1-6-2015).

2. Subs. by s. 57, *ibid.*, for sub-section (3) (w.e.f. 1-6-2015).

3. The words, brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” omitted by s. 57, *ibid* (w.e.f. 1-6-2015).

**234C. Interest for deferment of advance tax.**—<sup>1</sup>[(I) Where in any financial year,—

<sup>2</sup>[(a) an assessee, other than <sup>3</sup>[the assessee referred to in clause (b)], who is liable to pay advance tax under section 208 has failed to pay such tax or—

(i) the advance tax paid by such assessee on its current income on or before the 15th day of June is less than fifteen per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. per month for a period of three months on the amount of the shortfall from fifteen per cent or forty-five per cent. or seventy-five per cent., as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the assessee on the current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. on the amount of the shortfall from the tax due on the returned income:]

Provided that if the advance tax paid by the assessee on the current income, on or before the 15th day of June or the 15th day of September, is not less than twelve per cent or, as the case may be, thirty-six per cent. of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates;]

(b) <sup>4</sup>[<sup>5</sup>[an assessee who declares profits and gains in accordance with the provisions of sub-section (I) of section 44AD or sub-section (I) of section 44ADA, as the case may be], who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:]

<sup>6</sup>[Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

(a) the amount of capital gains; or

(b) income of the nature referred to in sub-clause (ix) of clause (24) of <sup>7</sup>[section 2; or]

<sup>8</sup>[(c) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the <sup>9</sup>[first time; or]]

<sup>10</sup>[(d) income of the nature referred to in sub-section (I) of section 115BBDA,]

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1. Subs. by Act 32 of 1994, s. 45, for certain words (w.e.f. 1-4-1995).

2. Subs. by Act 28 of 2016, s. 91, for clause (a) (w.e.f. 1-6-2016).

3. Subs. by Act 7 of 2017, s. 75, for “an eligible assessee in respect of the eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

4. Subs. by Act 28 of 2016, s. 91, for certain words (w.e.f. 1-6-2016).

5. Subs. by Act 7 of 2017, s. 75, for “an eligible assessee in respect of the eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

6. Ins. by Act 3 of 1989, s. 40 (w.e.f. 1-4-1989).

7. Subs. by Act 28 of 2016, s. 91, for “section 2” (w.e.f. 1-6-2016).

8. Ins. by s. 91, *ibid.* (w.e.f. 1-6-2016).

9. Subs. by Act 7 of 2017, s. 75, for “first time,” (w.e.f. 1-4-2017).

10. Ins. by s. 75, *ibid.* (w.e.f. 1-4-2017).



and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) <sup>1</sup>[or clause (b) or clause (c) <sup>2</sup>[or clause (d)]]], as the case may be, had such income been a part of the total income, as part of the <sup>3</sup>[remaining instalments of advance tax which are due or where no such instalments are due], by the 31st day of March of the financial year:]

<sup>4</sup>[Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000), as amended by the Taxation Laws (Amendment) Act, 2000 (1 of 2001), and the assessee has paid the amount of shortfall, on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and the 15th day of December, 2000:]

<sup>5</sup>[Provided also that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000) as amended by the Taxation Laws (Amendment) Act, 2001 (4 of 2001) and the assessee has paid the amount of shortfall on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and 15th day of December, 2000.]

<sup>6</sup>[*Explanation.*—In this section, “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of,—

(i) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA <sup>7</sup>[or section 115JD].]

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]]

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1. Subs. by Act 28 of 2016, s. 91, for “or clause (b)” (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 75 (w.e.f. 1-4-2017).

3. Subs. by Act 33 of 1996, s. 54, for “instalment of advance tax which is immediately due or where no such instalment is so due” (w.e.f. 1-4-1997).

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

5. Ins. by Act 4 of 2001, s. 7 (w.e.f. 3-2-2001).

6. Subs. by Act 21 of 2006, s. 50, for the *Explanation* (w.e.f. 1-4-2007).

7. Ins. by Act 23 of 2012, s. 87 (w.e.f. 1-4-2013).

<sup>1</sup>**[234D. Interest on excess refund.]—**(1) Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section (1) of section 143, and—

(a) no refund is due on regular assessment; or

(b) the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of <sup>2</sup>[one-half per cent.] on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.

<sup>3</sup>[*Explanation 1.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.]

<sup>4</sup>[*Explanation 2.*—For the removal of doubts, it is hereby declared that the provisions of this section shall also apply to an assessment year commencing before the 1st day of June, 2003 if the proceedings in respect of such assessment year is completed after the said date.]

<sup>5</sup>[*G.—Levy of fee in certain cases*

**234E. Fee for default in furnishing statements.**—(1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.

(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.]

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1. Ins. by Act 32 of 2003, s. 91 (w.e.f. 1-6-2003).

2. Subs. by Act 54 of 2003, s. 15, for “two-third per cent.” (w.e.f. 8-9-2003).

3. The *Explanation* numbered as *Explanation 1* by Act 23 of 2012, s. 88 (w.e.f. 1-6-2003).

4. Ins. by s. 88, *ibid.* (w.e.f. 1-6-2003).

5. Ins. by s. 89, *ibid.* (w.e.f. 1-7-2012).

<sup>1</sup>[**234F. Fee for default in furnishing return of income.**—(1) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (1) of the said section, he shall pay, by way of fee, a sum of,—

(a) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

(b) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(2) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.]

## CHAPTER XVIII

### RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

**235. Relief to shareholders in respect of agricultural income-tax attributable to dividends.**—*[Omitted by the Finance (No. 2) (Act, 32 of 1971), s. 28 (w.e.f. 1-4-1972). Prior to its omission, it was amended by the Taxation Laws (Amendment) (Act, 42 of 1970), s. 41 (w.e.f. 1-4-1971) and with retrospective effect from 1-4-1962, the Finance Act, (13 of 1966), s. 27 (w.e.f. 1-4-1966) and the Finance Act, 10 of 1965, s. 55 (w.e.f. 1-4-1965).]*

**236. Relief to company in respect of dividend paid out of past taxed profits.**—(1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of Chapter XVIIIB, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub-section (2), and, where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded.

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960.

*Explanation 1.*—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year.

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1. Ins. by Act 7 of 2017, s. 76 (w.e.f. 1-4-2018).

*Explanation 2.*—The expression “distributable income of any previous year” shall mean <sup>1</sup>[the total income (as computed before making any deduction under Chapter VIA) assessed for that year] as reduced by—

(i) the amount of tax payable by the company in respect of <sup>2</sup>[its total income];

(ii) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income;

<sup>3</sup>[(iii) any sum with reference to which a deduction is allowable to the company under the provisions of section 80G; and]

(iv) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (10 of 1949),

and as increased by—

(a) any profits and gains or receipts of the company, not included in its <sup>4</sup>[total income (as computed before making any deduction under Chapter VIA)]; and

(b) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account.

<sup>5</sup>**[236A. Relief to certain charitable institutions or funds in respect of certain dividends.—(1)**  
<sup>6</sup>[Where seventy-five per cent of the share capital of any company is throughout the previous year beneficially held by an institution or fund established in India for a charitable purpose the income from dividend whereof is exempt under section 11], credit shall be given to the institution or fund against the tax, if any, payable by it, of a sum calculated in accordance with the provisions of sub-section (2), in respect of its income from dividends (other than dividends on preference shares) declared or distributed during the previous year relevant to any assessment year beginning on or after the <sup>7</sup>[1st day of April, 1966] <sup>8</sup>[by such company], and where the amount of credit so calculated exceeds the tax, if any, payable by the said institution or fund, the excess shall be refunded.

<sup>9</sup>[(2) The amount to be given as credit under sub-section (1) shall be a sum which bears to the amount of the tax payable by the company under the provisions of the annual Finance Act with reference to the relevant amount of distributions of dividends by it the same proportion as the amount of the dividends (other than dividends on preference shares) received by the institution or fund from the company bears to the total amount of dividends (other than dividends on preference shares) declared or distributed by the company during the previous year.

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1. Subs. by Act 20 of 1967, s. 33 and the Third Schedule for “the total income assessed for that year” (w.e.f. 1-4-1967).

2. Subs. by s. 33 and the Third Schedule, *ibid.*, for “the said total income” (w.e.f. 1-4-1968).

3. Subs. by s. 33 and the Third Schedule, *ibid.*, for clause (iii) (w.e.f. 1-4-1968).

4. Subs. by s. 33 and the Third Schedule, *ibid.*, for “total income” (w.e.f. 1-4-1968).

5. Ins. by Act 31 of 1964, s. 11 (w.e.f. 1-4-1964).

6. Subs. by Act 11 of 1987, s. 74, for “In the case of an institution or fund referred to in clause (iii) of sub-section (2) of section 104” (w.e.f. 1-4-1988).

7. Subs. by Act 13 of 1966, s. 28, for “1st day of April, 1964” (w.e.f. 1-4-1966).

8. Subs. by Act 11 of 1987, s. 74, for “by such a company as is referred to in the said clause” (w.e.f. 1-4-1988).

9. Subs. by Act 13 of 1966, s. 28, for sub-section (2) (w.e.f. 1-4-1966).