

**CHAPTER III**  
**INCOMES WHICH DO NOT FORM PART**  
**OF TOTAL INCOME**

**Incomes not included in total income.**

**10.** In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

(1) agricultural income ;

<sup>2</sup>(2) <sup>3</sup>[subject to the provisions of sub-section (2) of section 64,] any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family ;

<sup>4</sup>[(2A) in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

*Explanation.*—For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits ;]

<sup>5</sup>[<sup>6</sup>(3) <sup>7</sup>any receipts which are of a casual and non-recurring nature, <sup>8</sup>[to the extent such receipts do not exceed five thousand rupees in the aggregate] :

<sup>9</sup>[**Provided** that where such receipts relate to winnings from races including horse races, the provisions of this clause shall have effect as if for the words “five thousand rupees”, the words “two thousand five hundred rupees” had been substituted :

2. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

3. Inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

4. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier, clause (2A) was inserted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1-4-1989 and was omitted by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date.

5. Substituted by the Finance Act, 1972, w.e.f. 1-4-1972. Section 59 of the said Finance Act, which has made an independent provision in regard to this amendment, read as follows :

“*Certain casual and non-recurring receipts not to be included in the total income for the assessment year 1972-73.*—Notwithstanding the amendments made by this Act to the Income-tax Act, in computing, in the case of any person, the total income of a previous year relevant to the assessment year commencing on the 1st day of April, 1972, any income falling within clause (3) of section 10 of the Income-tax Act as it stood immediately before the 1st day of April, 1972, shall not be included.”

6. See also Circular No. 158, dated 27-12-1974, Letter F. No. 24/42/66-IT(A-I), dated 3-2-1966 and Circular No. 22 (XXIII-22), dated 12-9-1960. For details, see Taxmann’s Master Guide to Income-tax Act.

7. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

8. Substituted for “not being winnings from lotteries, to the extent such receipts do not exceed one thousand rupees in the aggregate” by the Finance Act, 1986, w.e.f. 1-4-1987.

9. Substituted for “Provided that” by the Finance Act, 1992, w.e.f. 1-4-1992.

**Provided further** that] this clause shall not apply to—

- (i) capital gains chargeable under the provisions of section 45 ; or
- (ii) receipts arising from business or the exercise of a profession or occupation ; or
- (iii) receipts by way of addition to the remuneration of an employee ; ]

<sup>10</sup>[\* \* \* ]

<sup>11</sup>[\* \* \* ]

<sup>12</sup>[(4) (i) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette<sup>13</sup>, specify in this behalf, including income by way of premium on the redemption of such bonds ;

<sup>14</sup>[<sup>15</sup>(ii) in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and the rules made thereunder :

10. Word 'or' omitted by the Finance Act, 1992, w.e.f. 1-4-1992. Earlier 'or' was inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

11. Omitted by the Finance Act, 1992, w.e.f. 1-4-1992. Prior to omission, clause (iv), as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991, read as under :

“(iv) winnings from races including horse races ;”

12. Substituted for clauses (4) and (4A) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to their substitution, clause (4), as amended by the Finance Act, 1964, w.e.f. 1-4-1964, and clause (4A) as inserted by the Finance Act, 1964, w.e.f. 1-4-1965 and subsequently amended by the Finance Act, 1968, w.e.f. 1-4-1969 and substituted by the Finance Act, 1982, w.e.f. 1-4-1982, stood as under :

‘(4) in the case of a non-resident, any income from interest on such securities as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank or Fund, as the case may be, which is guaranteed by the Central Government ;

(4A) in the case of a person resident outside India, any income from interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder.

*Explanation.*—In this clause, “person resident outside India” shall have the meaning assigned to it in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973) ;’

13. For specified securities, see Notification No. SO 3331, dated 19-10-1965. For details, see Taxmann’s Master Guide to Income-tax Act.

14. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Prior to substitution, sub-clause (ii) read as under :

“(ii) in the case of an individual, who is a person resident outside India as defined in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the said Act and the rules made thereunder ;”

15. See also Circular No. 592, dated 4-2-1991 and Circular No. 604, dated 11-6-1991. For details, see Taxmann’s Master Guide to Income-tax Act.

**Provided** that such individual is a person resident outside India as defined in clause (q) of section 2<sup>16</sup> of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account ;]]

<sup>17</sup>[(4B) in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income from interest on such savings certificates issued by the Central Government as that Government may, by notification in the Official Gazette<sup>18</sup>, specify in this behalf :

**Provided** that the individual has subscribed to such certificates in convertible foreign exchange remitted from a country outside India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder.

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

(a) a person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India ;

(b) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder ;]

<sup>19</sup>[(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India ;

(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service, subject to such conditions as may be prescribed<sup>20</sup> (including

16. Clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973, defines “person resident outside India” as follows :

‘(q) “person resident outside India” means a person who is not resident in India ;’

17. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

18. For specified savings certificates, see Notification No. SO 653(E), dated 8-9-1982. For details, see Taxmann’s Master Guide to Income-tax Act.

19. Substituted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier clause (5), as amended by the Finance Act, 1975, w.e.f. 1-4-1975, the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1962 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

20. Rule 2B prescribes the conditions as well as quantum of exemption, which are as follows :  
*Conditions to be satisfied* - Conditions to be satisfied are as under :

u The exemption is admissible on the value of any travel concession or assistance received by or due to an assessee from his employer or former employer, as the case may be, for himself and his family, in connection with his proceeding (i) on leave to any place in India, or (ii) to any place in India after the retirement from service, or (iii) to any place in India after the termination of his service.

(Contd. on p. 1.39)

(Contd. from p. 1.38)

u The exemption is admissible in respect of actual expenditure incurred for journeys performed, not only by the assessee but also by his family.

For this purpose, 'family' means (i) the spouse and children of the assessee, and (ii) the parents, brothers and sisters of the assessee provided that they are wholly or mainly dependent on the assessee. With effect from 1-10-1997, the Central Civil Service Leave Travel Concession Rules have been amended in this respect.

u The exemption can be availed only in respect of two *journeys* performed in a *block of four calendar years*. For this purpose, the first four-year block commenced with the calendar year 1986. Thus, the four-year blocks will be 1986-89, 1990-93, 1994-97, 1998-2001 and so on.

u If an assessee has not availed travel concession or assistance during any of the specified four-year block periods on one of the two permitted occasions, or on both occasions, exemption can be claimed provided he avails the concession or assistance in the calendar year immediately following that block. This is popularly known as the 'carry-over' concession. In such cases, the exemption so availed will not be counted for purposes of regulating the future exemptions allowable for the succeeding block of four years.

*Quantum of exemption.*—The basic rule is that the quantum of exemption will be limited to the actual expenses incurred on the journey. This pre-supposes that, without performing any journey and incurring expenses thereon, no exemption can be claimed.

In addition to the above general limitation, the quantum of exemption will also be subject to the following maximum limits, depending upon the mode of transport used or available:

#### A. JOURNEYS PERFORMED BEFORE 1-10-1997

n For journeys performed by rail	n Air-conditioned second class fare by the shortest route to the place of destination.
n Where place of origin of journey and destination are connected by rail, but journey is performed by any other mode of transport	n Air-conditioned second class fare by the shortest route to the place of destination.
n Where place of origin of journey and destination, or part thereof, are not connected by rail, and journey is performed between such places by any other mode of transport	n If a recognised public transport system exists between such places, the first class or deluxe class fare on such transport by the shortest route. In other case, air-conditioned second class fare for the distance of the journey by the shortest route as if the journey has been performed by rail.

#### B. JOURNEYS PERFORMED ON OR AFTER 1-10-1997

n For journeys performed by Air	n Air economy fare of the national carrier (Indian Airlines or Air India) by the shortest route to the place of destination.
n Where place of origin of journey and destination are connected by rail and the journey is performed by any mode of transport other than by air	n Air-conditioned first class rail fare by the shortest route to the place of destination.
n Where place of origin of journey and destination or part thereof are not connected by rail	n (i) Where a recognised public transport system exists, the first class or deluxe class fare on such transport by the shortest route to the place of destination. (ii) Where no recognised public transport system exists, the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey has been performed by rail.

(Contd. on p. 1.40)

conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government :

**Provided** that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

*Explanation.*—For the purposes of this clause, “family”, in relation to an individual, means—

- (i) the spouse and children of the individual ; and
- (ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual; ]

<sup>21</sup>[(5A) *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.*]

<sup>22</sup>[(5B) in the case of an individual who renders services as a technician in the employment (commencing from a date after the 31st day of March, 1993) of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this clause<sup>22a</sup>[\*\*\*] by the prescribed authority<sup>23</sup> or in any business carried on in India and the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India and the tax on his income

(Contd. from p. 1.39)

*Restricted concession for children.*—Under sub-rule (4) of rule 2B, inserted with effect from 1-10-1997, exemption on travel concession will not be admissible to more than two surviving children of an individual born after 1-10-1998. This restriction will not however apply in respect of children born before 1-10-1998, and also in cases where an individual, after getting one child, begets multiple children (twins/triplets/quadruplets, etc.) on the second occasion. The implications of this restriction will be as follows :

- u In respect of journeys performed on or before 1-10-1998 exemption will be admissible in respect of all the surviving children of the individual.
- u In respect of journeys performed after 1-10-1998
  - the exemption will be admissible to all surviving children born before 1-10-1998;
  - in addition, the exemption will be admissible to only two surviving children born on or after 1-10-1998. In reckoning this limit of two children, children born out of multiple birth after the first child will be treated as ‘one child’ only.

It may be noted that section 2(15B) of the Act defines a ‘child’ as includes a step-child and an adopted child of the individual’. Hence the aforesaid restrictions will operate in respect of step-children and adopted children also provided they are born on or after 1-10-1998.

21. Prior to its omission, clause (5A), as inserted by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1982, read as under :

“(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause (d) of the *Explanation* to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting ;”

22. Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

22a. Words “or sub-clause (viii) of clause (6)” omitted by the Finance Act, 1999, w.e.f. 1-4-1999.

23. Prescribed authority under rule 16A is Secretary, Department of Scientific & Industrial Research, Government of India.

for such services chargeable under the head “Salaries” is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in <sup>24</sup>section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India :

**Provided** that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

*Explanation.*—For the purposes of this clause, “technician” means a person having specialised knowledge and experience in—

- (i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or
- (ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or
- (iii) such other field as the Central Government may, having regard to availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify<sup>25</sup>, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;]

(6) in the case of an individual who is not a citizen of India,—

- <sup>26</sup>[(i) subject to such conditions as the Central Government may prescribe<sup>27</sup>, passage moneys or the value of any free or concessional passage received by or due to such individual—
  - (a) from his employer, for himself, his spouse and children, in connection with his proceeding on home leave out of India ;
  - (aa) <sup>28</sup>[\* \* \*]
  - (b) from his employer or former employer for himself, his spouse and children, in connection with his proceeding to his home country out of India after retirement from service in India or after the termination of such service ;]

24. For text of section 200 of the Companies Act, 1956, see **Appendix One**.

25. For specified ‘such other field’, see Notification No. SO 569(E), dated 27-3-1993. For details, see Taxmann’s Master Guide to Income-tax Act.

26. Substituted by the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1962.

27. For prescribed conditions, see Notification No. GSR 72(E), dated 10-2-1977. For details, see Taxmann’s Master Guide to Income-tax Act.

28. Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to its omission, item (aa), as inserted by the Finance (No. 2) Act, 1977, w.r.e.f. 1-4-1972, read as under :

“(aa) from his employer, for his children having full time education in any educational institution outside India, in connection with their proceeding to India during vacation ;”

<sup>29</sup>[(ii) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity :

**Provided** that the remuneration received by him as trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), or as a member of the staff of any of those officials, shall be exempt only if the remuneration of the corresponding officials or, as the case may be, members of the staff, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country :

**Provided further** that such members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff ;]

- (vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—
- (a) the foreign enterprise is not engaged in any trade or business in India ;
  - (b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year ; and
  - (c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act ;

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29. Substituted for the existing sub-clauses (ii) to (v) by the Finance Act, 1988, w.e.f. 1-4-1989. Prior to their substitution, sub-clauses (ii) to (v) stood as under :

- “(ii) the remuneration received by him as ambassador, high commissioner, envoy, minister, *charge d’ affairs*, commissioner, counsellor or the secretary, adviser or attache of an embassy, high commission, legation or commission of a foreign State, for service in such capacity ;
- (iii) the remuneration received by him as a *consul de carriere*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State for service in such capacity ;
- (iv) the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country ;
- (v) the remuneration received by him as a member of the staff of any of the officials referred to in clause (ii), clause (iii) or clause (iv), if the member—
- (a) is a subject of the country represented ;
  - (b) is not engaged in any business or profession or employment in India otherwise than as a member of such staff ;

and further, where the individual is a member of the staff of any official referred to in clause (iv), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government ;”

- (*via*) <sup>30</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]  
 (*vii*) <sup>31</sup>[*Omitted by the Finance Act, 1993, w.e.f. 1-4-1993.*]  
 (*viii*) <sup>32</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

30. Prior to its omission, sub-clause (*via*), as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, read as under :

“(*via*) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered by him in India in connection with such purposes ; provided that such institution or association or body and the purposes for which his services are rendered in India are approved by the Central Government ;”

31. Prior to omission, sub-clause (*vii*), as amended by the Finance Act, 1964, w.e.f. 1-4-1964, Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and Finance Act, 1965, w.e.f. 1-4-1965, read as under :

“(*vii*) the remuneration due to or received by him chargeable under the head “Salaries” for services rendered as a technician in the employment (commencing from a date before the 1st day of April, 1971) of the Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below—

(*a*) where his contract of service is approved by the Central Government before the commencement of his service or within one year of such commencement—

(*i*) in the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India ;

(*ii*) in the case of any other technician, such remuneration due to or received by him during the thirty-six months commencing from the date of his arrival in India, and where any such person continues with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head “Salaries” is paid by the employer to the Central Government [which tax in the case of an employer being a company may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding sixty months following the expiry of the thirty-six months aforesaid ;

(*b*) in any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of three hundred and sixty-five days in all commencing from the date of his arrival in India.

*Explanation.*—For the purposes of this sub-clause, “technician” means a person having specialised knowledge and experience in—

(*i*) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(*ii*) industrial or business management techniques,  
 who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;’

32. Prior to its omission, sub-clause (*viii*), as inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and later on amended by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973, Finance Act, 1979, w.e.f. 1-6-1979, Finance Act, 1988, w.e.f. 1-4-1988, Finance Act, 1992, w.e.f. 1-6-1992 and Finance Act, 1993, w.e.f. 1-4-1993, read as under:

“(*viii*) where such individual renders services as a technician in the employment of the Government or of a local authority or of any corporation set up under any special

(Contd. on p. 1.44)



(Contd. from p. 1.43)

law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any business carried on in India and the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India,

the remuneration for such services due to or received by him, which is chargeable under the head "Salaries", to the extent mentioned below, namely :—

- (I) where such services commence from a date after the 31st day of March, 1971 but before the 1st day of April, 1988,—
- (A) such remuneration due to or received by him during the period of twenty-four months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], also the tax so paid by the employer ; and
- (B) where he continues, with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year, to remain in employment in India after the expiry of the period of twenty-four months aforesaid and the tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the first-mentioned twenty-four months ;
- (II) where such services commence from a date after the 31st day of March, 1988 but before the 1st day of April, 1993, and tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India :

**Provided** that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

*Explanation.*—For the purposes of this sub-clause, "technician" means a person having specialised knowledge and experience in—

- (i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or
- (ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or
- (iii) such other field as the Central Government may, having regard to the availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;”

- (viii) any income chargeable under the head “Salaries” received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year ;
- (ix) <sup>33</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]
- (x) <sup>34</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]
- <sup>35</sup>[(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—
- (i) the Government ; or

33. Prior to its omission, sub-clause (ix), as inserted by the Finance Act, 1964, w.e.f. 1-4-1964, read as under :

“(ix) any income chargeable under the head “Salaries” received by or due to him during the thirty-six months commencing from the date of his arrival in India for service rendered as a professor or other teacher in a University or other educational institution, and where any such individual continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head “Salaries” is paid by the University or other educational institution concerned to the Central Government, the tax so paid for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid, provided in either case the following conditions are fulfilled, namely :—

- (i) such individual was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India ; and
- (ii) his contract of service is approved by the Central Government—
- (a) on or before the 1st day of October, 1964, in the case of a professor or other teacher whose service commenced before the 1st day of April, 1964 ;
- (b) before the commencement of his service or within one year of such commencement, in any other case ;”

34. Prior to its omission, sub-clause (x), as inserted by the Finance Act, 1964, w.e.f. 1-4-1964, read as under :

“(x) any sum due to or received by him, during the twenty-four months commencing from the date of his arrival in India, for undertaking any research work in India, provided the following conditions are fulfilled, namely :—

- (a) the research work is undertaken in connection with a research scheme approved in this behalf by the Central Government on or before the 1st day of October of the relevant assessment year ; and
- (b) such sum is payable or paid directly or indirectly by the Government of a foreign State or any institution or association or other body established outside India ;”

35. Inserted by the Finance Act, 1976, w.e.f. 1-4-1976.

- (ii) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments ; or
- (iii) any company which is a subsidiary of a company referred to in item (ii) ; or
- (iv) any corporation established by or under a Central, State or Provincial Act ; or
- (v) any society registered under the Societies Registration Act, 1860 (14 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments ;]

<sup>36</sup>[(6A) where in the case of a foreign company deriving income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976 <sup>37</sup>[and,—

- (a) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy ; and
- (b) in any other case, the agreement is approved by the Central Government,

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid].

*Explanation.*—For the purposes of this clause <sup>38</sup>[and clause (6B)],—

- (a) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9 ;
- (b) “foreign company” shall have the same meaning as in section 80B ;
- (c) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;]

36. Inserted by the Finance Act, 1983, w.e.f. 1-4-1984.

37. Substituted for “and approved by the Central Government, the tax on such income is payable, under the terms of such agreement, by Government or the Indian concern to the Central Government, the tax so paid” by the Finance Act, 1992, w.e.f. 1-6-1992.

38. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.

<sup>39</sup>[(6B) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into by the Central Government with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved by the Central Government, the tax so paid ;]

<sup>40</sup>[(6BB) where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under an agreement entered into after the 31st day of March, 1997 <sup>40a</sup>[but before the 1st day of April, 1999] and approved by the Central Government in this behalf and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

*Explanation.*—For the purposes of this clause, the expression “foreign enterprise” means a person who is a non-resident;]

<sup>41</sup>[(6C) any income arising to such foreign company, as the Central Government may, by notification<sup>42</sup> in the Official Gazette, specify in this behalf, by way of fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India ;]

(7) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India ;

(8) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—

(a) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State ;

39. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.

40. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

40a. The italicised words shall be inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

41. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

42. For specified projects, see Taxmann's Master Guide to Income-tax Act.

<sup>43</sup>[(8A) in the case of a consultant—

- (a) any remuneration or fee received by him or it, directly or indirectly, out of the funds made available to an international organisation [hereafter referred to in this clause and clause (8B) as the agency] under a technical assistance grant agreement between the agency and the Government of a foreign State ; and
- (b) any other income which accrues or arises to him or it outside India, and is not deemed to accrue or arise in India, in respect of which such consultant is required to pay any income or social security tax to the Government of the country of his or its origin.

*Explanation.*—In this clause, “consultant” means—

- (i) any individual, who is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; or
  - (ii) any other person, being a non-resident, engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project, provided the following conditions are fulfilled, namely :—
    - (1) the technical assistance is in accordance with an agreement entered into by the Central Government and the agency ; and
    - (2) the agreement relating to the engagement of the consultant is approved by the prescribed authority<sup>44-45</sup> for the purposes of this clause ;
- (8B) in the case of an individual who is assigned to duties in India in connection with any technical assistance programme and project in accordance with an agreement entered into by the Central Government and the agency—
- (a) the remuneration received by him, directly or indirectly, for such duties from any consultant referred to in clause (8A) ; and
  - (b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the country of his origin, provided the following conditions are fulfilled, namely :—
    - (i) the individual is an employee of the consultant referred to in clause (8A) and is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; and
    - (ii) the contract of service of such individual is approved by the prescribed authority<sup>44-45</sup> before the commencement of his service ;]

43. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

44-45. The prescribed authority under rule 16B is Additional Secretary, Department of Economic Affairs in Ministry of Finance, Government of India in concurrence with Member (Income-tax), CBDT.

(9) the income of any member of the family of any such individual as is referred to in clause (8) <sup>46</sup>[or clause (8A) or, as the case may be, clause (8B)] accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State <sup>46</sup>[or, as the case may be, country of origin of such member];

<sup>47</sup>[<sup>48</sup>(10) <sup>49</sup>(i) any death-*cum*-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services ;

(ii) any gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4<sup>50</sup> of that Act ;

(iii) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service,<sup>51</sup>[calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit<sup>52</sup> as the Central Government may, by notification in the Official

46. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

47. Substituted for existing clause (10) by the Finance Act, 1974, w.e.f. 1-4-1975. Original clause was amended first by the Finance Act, 1972, w.e.f. 1-4-1973 and then by the Finance Act, 1974, with retrospective effect from 1-6-1972/1-4-1962.

48. See also Letter F. No. 1(179)-62/TPL, dated 13-12-1962 and Letter F. No. 194/6/73-IT(A-I), dated 19-6-1973. For details, see Taxmann's Master Guide to Income-tax Act.

49. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

50. For text of sub-sections (2) and (3) of section 4 of the Payment of Gratuity Act, 1972, see **Appendix One.**

The limit laid down under section 4(3) of the Payment of Gratuity Act, 1972 [as amended by the Payment of Gratuity (Amendment) Act, 1998, w.r.e.f. 24-9-1997] is Rs. 3,50,000.

51. Substituted for "calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of \*thirty-six thousand rupees or twenty months' salary so calculated, whichever is less" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

\*Substituted for "thirty thousand rupees" by the Finance Act, 1983, w.r.e.f. 1-4-1982.

52. Rs. 3,50,000 has been specified as the limit in case of retirement, etc., on or after 24-9-1997. Vide Notification No. 10772 [F. No. 200/77/97-IT(A-I)], dated 20-1-1999. For details, see Taxmann's Master Guide to Income-tax Act.

Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government] :

**Provided** that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause <sup>53</sup>[shall not exceed the limit so specified] :

**Provided further** that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause <sup>54</sup>[shall not exceed the limit so specified] as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

<sup>55</sup>[\* \* \*]

*Explanation.*—<sup>56</sup>[In this clause, and in clause (10AA)], “salary” shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule ;]

<sup>57</sup>[<sup>58</sup>(10A) <sup>59</sup>(i) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable <sup>60</sup>[to the members of the civil services

53. Substituted for “shall not exceed \*thirty-six thousand rupees” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

\*Substituted for “thirty thousand rupees” by the Finance Act, 1983, w.r.e.f. 1-4-1982.

54. Substituted for “shall not exceed \*thirty-six thousand rupees” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

\*Substituted for “thirty thousand rupees” by the Finance Act, 1983, w.r.e.f. 1-4-1982.

55. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original third and fourth provisos, is inserted by the Finance Act, 1983, with retrospective effect from 1-4-1982, read as under :

**Provided also** that the Central Government may, having regard to the maximum amount which may for the time being be exempt under sub-clause (i), increase, by notification in the Official Gazette, the limit of thirty-six thousand rupees, for all the three purposes for which it has been mentioned in the foregoing provisions of this clause, up to such maximum amount :

**Provided also** that in relation to cases in which the event (that is to say retirement of the employee or his becoming incapacitated or termination of his employment or his death, as the case may be) on which gratuity is received had taken place before the 31st day of January, 1982, the proviso immediately preceding this proviso shall not apply and the remaining provisions of this clause shall have effect as if for the words “thirty-six thousand rupees”, at the three places where they occur, the words “thirty thousand rupees” had been substituted.’

56. Substituted for “In this clause” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

57. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

58. See also Circular No. 286, dated 17-11-1980 and Circular No. 623, dated 6-1-1992. For details, see Taxmann’s Master Guide to Income-tax Act.

59. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

60. Substituted for “to the members of the Defence Services or to the employees of a State Government, a local authority” by the Finance Act, 1974, w.r.e.f. 1-4-1962.

of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority] or a corporation established by a Central, State or Provincial Act ;

(ii) any payment in commutation of pension received under any scheme of any other employer, to the extent it does not exceed—

(a) in a case where the employee receives any gratuity, the commuted value of one-third of the pension which he is normally entitled to receive, and

(b) in any other case, the commuted value of one-half of such pension,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality ;

<sup>61</sup>[\* \* \*]

<sup>62</sup>[(iii) any payment in commutation of pension received from a fund under clause (23AAB) ;]

<sup>63</sup>[<sup>64</sup>(10AA)(i) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement <sup>65</sup>[whether] on superannuation or otherwise ;

(ii) any payment of the nature referred to in sub-clause (i) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement <sup>66</sup>[whether] on superannuation or otherwise as does not exceed <sup>67</sup>[ten] months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his retirement <sup>68</sup>[whether] on superannuation or otherwise, <sup>68</sup>[subject to such

61. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original proviso stood as under :

“**Provided** that the maximum limit of payment specified in sub-clause (ii)(a) or sub-clause (ii)(b) shall not apply in respect of any such payment made before the 19th day of August, 1965 ;”

62. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

63. Inserted by the Finance Act, 1982, w.r.e.f. 1-4-1978.

64. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

65. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1978.

66. Inserted, *ibid*.

67. Substituted for “eight” by the Finance Act, 1999, w.r.e.f. 1-4-1998. Earlier “eight” was substituted for “six” by the Direct Tax Laws (Amendment) Act, 1987, with retrospective effect from 1-7-1986.

68. Substituted for “or thirty thousand rupees, whichever is less” by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.



limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit<sup>69</sup> applicable in this behalf to the employees of that Government] :

**Provided** that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this sub-clause<sup>70</sup> [shall not exceed the limit so specified] :

**Provided further** that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount of such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this sub-clause<sup>71</sup> [shall not exceed the limit so specified], as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

<sup>72</sup>[\* \* \*]

*Explanation.*—For the purposes of sub-clause (ii),—

<sup>73</sup>[\* \* \*] the entitlement to earned leave of an employee shall not exceed thirty days for every year of actual service rendered by him as an employee of the employer from whose service he has retired ;

<sup>74</sup>[\* \* \*]

69. For specified exemption limit [1. 1-4-1995 to 30-6-1995 : Rs. 1,30,320/2. 1-7-1995 to 30-6-1997 : Rs. 1,35,360/3. 1-7-1997 onwards : Rs. 2,40,000], see Notification No. 10749 [F. No. 200/23/98/IT-(A-I)], dated 27-11-1998. For details, see Taxmann's Master Guide to Income-tax Act.

70. Substituted for "shall not exceed thirty thousand rupees" by the Direct Tax Laws (Amendment) Act, 1987, with retrospective effect from 1-7-1986.

71. Substituted for "shall not exceed thirty thousand rupees", *ibid*.

72. Third and fourth provisos omitted, *ibid*. Prior to their omission, the third and fourth provisos, as amended by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1978, stood as under :

'**Provided also** that the Central Government may, having regard to the maximum amount which may for the time being be exempt under sub-clause (i), increase, by notification in the Official Gazette, the limit of thirty thousand rupees for all the three purposes for which it has been mentioned in the foregoing provisions of this sub-clause, up to such maximum amount :

**Provided also** that in relation to an employee retiring whether on superannuation or otherwise before the 1st day of January, 1982, the proviso immediately preceding this proviso shall not apply and the remaining provisions of this sub-clause shall have effect as if for the words "thirty thousand rupees", at the three places where they occur, the words "twenty-five thousand five hundred rupees" had been substituted.'

73. "(i)" omitted by the Direct Tax Laws (Amendment) Act, 1987, with retrospective effect from 1-7-1986.

74. Clause (ii) omitted by the Direct Tax Laws (Amendment) Act, 1987, with retrospective effect from 1-7-1986. Omitted clause stood as under :

'(ii) "salary" shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.'

<sup>75</sup>[(10B) any compensation received by a workman under the Industrial Disputes Act, 1947 (14 of 1947), or under any other Act or Rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, <sup>76</sup>[at the time of his retrenchment :

**Provided** that the amount exempt under this clause shall not exceed—

(i) an amount calculated in accordance with the provisions of <sup>77</sup>clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947) ; or

<sup>78</sup>[(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf,]

whichever is less :

**Provided further** that the preceding proviso shall not apply in respect of any compensation received by a workman in accordance with any scheme which the Central Government may, having regard to the need for extending special protection to the workmen in the undertaking to which such scheme applies and other relevant circumstances, approve in this behalf.]

*Explanation.*—For the purposes of this clause—

(a) compensation received by a workman at the time of the closing down of the undertaking in which he is employed shall be deemed to be compensation received at the time of his retrenchment ;

(b) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership

75. Inserted by the Finance Act, 1975, w.e.f. 1-4-1976.

76. Substituted for the following by the Finance Act, 1985, w.e.f. 1-4-1986 :

“at the time of his retrenchment, to the extent such compensation does not exceed—

(i) an amount calculated in accordance with the provisions of clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947) ; or

(ii) twenty thousand rupees,

whichever is less.”

77. Clause (b) of section 25F of the Industrial Disputes Act, 1947 lays down as follows :

“(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay for every completed year of continuous service or any part thereof in excess of six months ; and”

78. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original clause (ii) reads as under :

“(ii) fifty thousand rupees,”

or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, shall be deemed to be compensation received at the time of his retrenchment if—

- (i) the service of the workman has been interrupted by such transfer ; or
- (ii) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer ; or
- (iii) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer ;

<sup>79</sup>(c) the expressions “employer” and “workman” shall have the same meanings as in the Industrial Disputes Act, 1947 (14 of 1947);]

<sup>80</sup>[(10BB) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), and any scheme framed thereunder except payment made to any assessee in connection with the Bhopal Gas Leak Disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster ;]

<sup>81</sup>[(10C) <sup>82</sup>any amount received by an employee of—

- (i) a public sector company ; or
- (ii) any other company ; or
- (iii) an authority established under a Central, State or Provincial Act ;  
or
- (iv) a local <sup>83</sup>[authority ; or]

79. For text of clause (g) and clause (s) of section 2 of the Industrial Disputes Act, 1947, defining “employer” and “workman”, respectively, see **Appendix One**.

80. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

81. Substituted by the Finance Act, 1993, w.e.f. 1-4-1993. Prior to substitution, clause (10C), as inserted by the Finance Act, 1987, w.e.f. 1-4-1987 and later substituted by the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

“(10C) any amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement in accordance with any scheme or schemes of voluntary retirement :

**Provided** that the schemes of the said companies governing the payment of such amount are framed in accordance with such guidelines as may be prescribed for the public sector companies or for other companies and such guidelines may, *inter alia*, include criteria of economic viability and such schemes in relation to companies (other than public sector companies) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf ;”

82. See also Circular No. 640, dated 26-11-1992. For details, see Taxmann’s Master Guide to Income-tax Act.

83. Substituted for “authority,” by the Finance Act, 1994, w.e.f. 1-4-1995.

<sup>84</sup>[(v) a co-operative society ; or

(vi) a 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

(vii) an Indian Institute of Technology within the meaning of clause (g) of section 3<sup>85</sup> of the Institutes of Technology Act, 1961 (59 of 1961) ; or

(viii) such institute of management as the Central Government may, by notification<sup>86</sup> in the Official Gazette, specify in this behalf,]

at the time of his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees :

**Provided** that the schemes of the said companies or authorities<sup>84</sup>[or societies or Universities or the Institutes referred to in sub-clauses (vii) and (viii)], as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including *inter alia* criteria of economic viability) as may be prescribed<sup>87</sup> and such schemes in relation to companies referred to in sub-clause (ii)<sup>88</sup>[or co-operative societies referred to in sub-clause (v)] are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf :

**Provided further** that where exemption has been allowed to an employee under this clause for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year ;]

84. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

85. Clause (g) of section 3 of the Institutes of Technology Act, 1961, defines "Institute" as follows :

'(g) "Institute" means any of the Institutions mentioned in section 2 and includes the Indian Institute of Technology, Kharagpur, incorporated under the Indian Institute of Technology (Kharagpur) Act, 1956 (5 of 1956);'

86. For notified Institutes of Management, *see* SO 475(E), dated 28-6-1994 and Notification No. 10796 [F. No. 200/1/98-IT(A-1)], dated 16-2-1999. For details, *see* Taxmann's Master Guide to Income-tax Act.

87. Rule 2BA prescribes requirements for a Scheme of Voluntary Retirement, which are as follows :

(1) It applies to an employee who has completed ten years of service or completed 40 years of age. (2) It applies to all employees (by whatever name called), including workers and executives of the company/authority/co-operative society excepting directors of the company/co-operative society. (3) The Scheme of voluntary retirement has been drawn to result in overall reduction in the existing strength of the employees. (4) The vacancy caused by voluntary retirement is not to be filled up, nor, the retiring employee is to be employed in another company or concern belonging to the same management. (5) The amount receivable on account of voluntary retirement of the employees, does not exceed the amount equivalent to three months' salary for each completed year of service or salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation.

88. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

<sup>89</sup>[(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy <sup>90</sup>[other than any sum received under sub-section (3) of section 80DDA] <sup>91</sup>[or under a Keyman insurance policy.

*Explanation.*—For the purposes of this clause, “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person ;]]

(11) any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies <sup>92</sup>[or from any other provident fund set up by the Central Government and notified<sup>93</sup> by it in this behalf in the Official Gazette ];

(12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule ;

<sup>94</sup>[(13) any payment from an approved superannuation fund made—

- (i) on the death of a beneficiary ; or
- (ii) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement ; or
- (iii) by way of refund of contributions on the death of a beneficiary ; or
- (iv) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon;]

<sup>95</sup>[<sup>96</sup>(13A) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent <sup>97</sup>[\* \* \*] as may be

89. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1962.

90. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

91. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

92. Inserted by the Finance Act, 1968, w.e.f. 1-4-1969.

93. For notified public provident fund, see Notification No. SO 2430, dated 2-7-1968. For details, see Taxmann’s Master Guide to Income-tax Act.

94. Substituted by the Finance Act, 1965, w.r.e.f. 1-4-1962.

95. Inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

96. See also Circular No. 90, dated 26-6-1972 and Letter F. No. 12/19/64-IT (A-I), dated 2-1-1967. For details, see Taxmann’s Master Guide to Income-tax Act.

97. “(not exceeding four hundred rupees per month)” omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Earlier, in this omitted expression “four” was substituted for “three” by the Finance Act, 1975, w.e.f. 1-4-1975.

prescribed<sup>98</sup> having regard to the area or place in which such accommodation is situate and other relevant considerations.]

<sup>99</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

- (a) the residential accommodation occupied by the assessee is owned by him ; or
- (b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him ;]

<sup>1</sup>[(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit,

98. Rule 2A prescribes the quantum of exemption available, which will be the *least* of the following :

<i>Bombay/Calcutta/Delhi/Madras</i>	<i>Other Cities</i>
n Allowance actually received	n Allowance actually received
n Rent paid in excess of 10% of salary	n Rent paid in excess of 10% of salary
n 50 per cent of salary	n 40 per cent of salary

‘Salary’ for this purpose includes basic salary as well as dearness allowance if the terms of employment so provide. It also includes commission based on a fixed percentage of turnover achieved by an employee as per terms of contract of employment but excludes all other allowances and perquisites. In view of *Explanation (ii)* to rule 2A, basic pay, dearness allowance and commission are determined on ‘due’ basis in respect of the period during which rental accommodation is occupied by the employee in the previous year. Thus, emoluments of a period other than previous year are not to be considered, even though such amount is received (as well as taxed) during the previous year. Again, emoluments of the period during which rental accommodation is not occupied in the previous year are left out of computation. It is important to note that where rent paid is 10 per cent or less than 10 per cent of salary, no exemption will be admissible. Again exemption is denied where an employee lives in his own house, or in a house for which he does not pay rent.

99. Inserted by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1976.

1. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, clause (14), as amended by the Finance Act, 1975, w.r.e.f. 1-4-1962, read as under :

“(14) any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose.

*Explanation.*—For the removal of doubts, it is hereby declared that any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides shall not be regarded, for the purposes of this clause, as a special allowance granted to meet expenses wholly, necessarily and exclusively incurred in the performance of such duties ;”

<sup>2</sup>[as may be prescribed], to the extent to which such expenses are actually incurred for that purpose ;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, <sup>3</sup>[as may be prescribed and to the extent as may be prescribed] :]

<sup>4</sup>[**Provided** that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence ;]

<sup>5</sup>[(14A) any income received by a public financial institution as exchange risk premium from any person borrowing foreign currency from such institution, provided the amount of such premium is credited by such institution to a fund specified under clause (23E).

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

(i) the expression “public financial institution” shall have the meaning assigned to it in section 4A<sup>6</sup> of the Companies Act, 1956 (1 of 1956) ;

(ii) the expression “exchange risk premium” means a premium paid by a person borrowing foreign currency from a public financial institution to cover the risk which may be borne by such institution on account of fluctuations in exchange rate of foreign currencies borrowed by such institution ;]

(15) <sup>7</sup>[(i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and

2. Substituted for “as the Central Government may, by notification in the Official Gazette, specify” by the Finance Act, 1995, w.e.f. 1-7-1995.

For prescribed allowances, see rule 2BB(1). For an analysis of rule 2BB, see **Appendix Two**.

3. Substituted for “as the Central Government may, by notification in the Official Gazette, specify, to the extent specified in the notification” by the Finance Act, 1995, w.e.f. 1-7-1995.

For prescribed allowances, see rule 2BB(2). For an analysis of rule 2BB, see **Appendix Two**.

4. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989.

5. Inserted by the Finance Act, 1989, w.e.f. 1-4-1989.

6. For text of section 4A of the Companies Act, 1956 and notified institutions thereunder, see **Appendix One**.

7. Substituted for sub-clauses (i), (ia), (ib), (ii) and (iia) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-clauses (ia) and (ib) were inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1965, w.e.f. 4-12-1965 and Special Bearer Bonds (Immunities & Exemptions) Act, 1981, w.e.f. 12-1-1981, respectively ; sub-clause (ii) was amended by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965, the Finance Act, 1979, w.e.f. 1-4-1980 and the Finance Act, 1987, with retrospective effect from 1-4-1983; sub-clause (iia) was inserted by the Finance Act, 1968, w.e.f. 1-4-1969. The said sub-clauses, prior to their substitution, stood as under :

(Contd. on p. 1.59)

deposits as the Central Government may, by notification<sup>8</sup> in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification ;]

<sup>9</sup>[(*iib*)<sup>10</sup>[in the case of an individual or a Hindu undivided family,] interest on such Capital Investment Bonds as the Central Government may, by notification<sup>11</sup> in the Official Gazette, specify in this behalf ;]

<sup>12</sup>[(*iic*) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds<sup>13</sup> as the Central Government may, by notification in the Official Gazette, specify in this behalf ;]

<sup>14</sup>[(*iid*) interest on such bonds, as the Central Government may, by notification<sup>15</sup> in the Official Gazette, specify, arising to—

- (a) a non-resident Indian, being an individual owning the bonds ; or
- (b) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian ; or
- (c) any individual to whom the bonds have been gifted by the non-resident Indian :

(Contd. from p. 1.58)

“(i) monthly payment on the 15-Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein ;

(*ia*) annual payment on National Defence Gold Bonds, 1980 ;

(*ib*) premium on the redemption of Special Bearer Bonds, 1991 ;

(*ii*) interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, Twelve-Year National Plan Savings Certificates and such other certificates, issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, interest on deposit in Post Office Savings Banks and bonus in respect of deposit under the Post Office Cumulative Time Deposits Rules, 1981, to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein :

**Provided** that where in the case of an assessee the interest on deposits in a Public Account of the nature referred to in item (6) in the Table below rule 4 of the Post Office Savings Account Rules, 1981, exceeds two thousand two hundred and fifty rupees, the amount of interest on such deposits that shall not be included in the total income of the assessee under this sub-clause shall be two thousand two hundred and fifty rupees ;

(*iaa*) interest on fixed deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette, to the extent to which the amounts of such deposits do not exceed, in each case, the maximum amount which is permitted to be deposited therein.”

8. For notified securities, bonds, annuity certificates, savings certificates, etc., see Taxmann’s Master Guide to Income-tax Act.
9. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.
10. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.
11. For notified capital investment bonds, see Taxmann’s Master Guide to Income-tax Act.
12. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.
13. 10% (now 9% - *Vide* Press release, dated 1-1-1999) Relief Bonds, 1995. See Notification No. F. 4(14) W & M/99, dated 1-1-1999. For details, see Taxmann’s Master Guide to Income-tax Act.
14. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.
15. For specified NRI bonds, see Taxmann’s Master Guide to Income-tax Act.



**Provided** that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India:

**Provided further** that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual:

**Provided also** that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year.

*Explanation.*—For the purposes of this sub-clause, the expression “non-resident Indian” shall have the meaning assigned to it in clause (e) of section 115C;]

(iii) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949;

<sup>16</sup>[(iia) interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the Reserve Bank of India, with any scheduled bank.

*Explanation.*—For the purposes of this sub-clause, “scheduled bank” shall have the meaning assigned to it in <sup>17</sup>[clause (ii) of the *Explanation* to clause (vii) of sub-section (1) of section 36];]

(iv) interest payable—

(a) by Government or a local authority on moneys borrowed by it from <sup>18</sup>[, or debts owed by it to,] sources outside India;

(b) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved<sup>19</sup> in this behalf by the Central Government by general or special order;

<sup>20</sup>(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials <sup>21</sup>[or

16. Inserted by the Finance Act, 1985, w.e.f. 1-4-1985.

17. Substituted for “the *Explanation* to clause (iii) of sub-section (5) of section 11” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

18. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

19. For approved institutions, see Taxmann’s Master Guide to Income-tax Act.

20. See also Letter [F. No. 21/221/64-IT(A-I)], dated 24-8-1964. For details, see Taxmann’s Master Guide to Income-tax Act. For form of application for obtaining exemption, refer Taxmann’s Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.183-1.185.

21. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

components] or capital plant and machinery, <sup>22</sup>[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 debt and its repayment.]

<sup>23</sup>[*Explanation.*—For the purposes of this item, “purchase of capital plant and machinery” includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery;]

<sup>24</sup>[(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), <sup>25</sup>[or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981),] <sup>26</sup>[or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987),] <sup>27</sup>[or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989),] or the Industrial Credit and Investment Corporation of India [a company formed and registered under the Indian Companies Act, 1913 (7 of 1913)], on any moneys borrowed by it from sources outside India, 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 and its repayment;]

<sup>28</sup>[(e) by any other financial institution established in India or 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), on any moneys borrowed by it from sources outside India under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery

22. Substituted for “in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment” by the Finance Act, 1964, w.e.f. 1-4-1964.

23. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

24. Inserted by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973.

25. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

26. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

27. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

28. Inserted by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973.

or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, 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 and its repayment; ]

<sup>29</sup>[(f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government having regard to the need for industrial development in India, 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 and its repayment;

<sup>30</sup>[(fa) by a scheduled bank <sup>31</sup>[to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6)\* of section 6] on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

*Explanation.*—For the purposes of this item, the expression “scheduled bank” shall have the meaning assigned to it in clause (ii) of the *Explanation* to clause (vii) of sub-section (1) of section 36;]

<sup>32</sup>[(g) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36 on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government, 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 and its repayment.]

*Explanation.*—For the purposes of <sup>33</sup>[items (f) <sup>34</sup>[(fa)] and (g)], the expression <sup>35</sup>“foreign currency” shall have the

29. Inserted by the Finance Act, 1976, w.e.f. 1-6-1976.

30. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

31. Inserted by the Finance Act, 1993, w.e.f. 1-4-1993.

32. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

33. Substituted for “this item” by the Finance Act, 1983, w.e.f. 1-4-1983.

34. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

35. Clause (g) of section 2 of the Foreign Exchange Regulation Act, 1973, defines “foreign currency” as follows:

‘(g) “foreign currency” means any currency other than \*Indian currency;’

\*“Indian currency” has been defined in clause (k), see footnote 69 on p. 1.246 post.

\*Should be ‘clause’.

meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);]

<sup>36</sup>[(h) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification<sup>37</sup> in the Official Gazette, specify in this behalf;]

<sup>38</sup>[(i) by Government on deposits made by an employee of the Central Government or a State Government <sup>39</sup>[or a public sector company], in accordance with such scheme as the Central Government may, by notification<sup>40</sup> in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.]

<sup>41</sup>[<sup>41a</sup>[*Explanation*].—For the purposes of this sub-clause, the expression “industrial undertaking” means any undertaking which is engaged in—

(a) the manufacture or processing of goods; or

<sup>42</sup>[(aa) *the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or*]

(b) the business of generation or distribution of electricity or any other form of power; or

<sup>43</sup>[(ba) the business of providing telecommunication services; or]

(c) mining; or

(d) the construction of ships; or

<sup>44</sup>[(e) the operation of ships or aircrafts or construction or operation of rail systems;]]

36. Inserted by the Finance Act, 1987, w.e.f. 1-4-1987.

37. For specified bonds/debentures of public sector companies, *see* Taxmann’s Master Guide to Income-tax Act.

38. Inserted by the Finance Act, 1989, w.e.f. 1-4-1990.

39. Inserted by the Finance Act, 1990, w.e.f. 1-4-1991.

40. For notified deposit schemes for retired Government employees/employees of public sector companies, refer Taxmann’s Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.195-1.211

41. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

41a. *Explanation* shall be renumbered as *Explanation 1* by the Finance Act, 1999, w.e.f. **1-4-2000**

42. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

43. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

44. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, clause (e), as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991, read as under :

“(e) the operation of ships or aircrafts;”

**The following Explanation 2 shall be inserted after renumbered Explanation 1 to sub-clause (iv) of clause (15) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000 :**

Explanation 2.—*For the purposes of this clause, the expression “interest” includes hedging transaction charges on account of currency fluctuation.*

<sup>45</sup>[(v) interest on—

- (a) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank’s SGL Account No. SL/DH 048;
- (b) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification<sup>46</sup> in the Official Gazette, specify, whether prospectively or retrospectively but in no case earlier than the 1st day of April, 1994 in this behalf.

*Explanation.*—For the purposes of this sub-clause, the expression “public sector bank” shall have the meaning assigned to it in the *Explanation* to clause (23D);]

**The following sub-clause (vi) shall be inserted after sub-clause (v) of clause (15) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000 :**

- (vi) *interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;*

<sup>47</sup>[(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement<sup>48</sup> [<sup>48a</sup> [*entered before the 1st day of April, 1997*] and] approved by the Central Government in this behalf.

45. Substituted by the Finance Act, 1995, w.e.f. 1-4-1995. Prior to its substitution, sub-clause (v), as inserted by the Finance Act, 1990, w.r.e.f. 1-4-1989 and later amended by the Finance Act, 1993, w.r.e.f. 2-11-1992, read as under:

“(v) interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in Reserve Bank’s SGL Account No. SL/DH 048;”

46. For notified accounts, *see* Taxmann’s Master Guide to Income-tax Act.

47. Substituted by the Finance Act, 1995, w.e.f. 1-4-1996. Prior to its substitution, clause (15A), as inserted by the Income-tax (Amendment) Act, 1989, w.e.f. 24-1-1989, read as under:

“(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft on lease from the Government of a foreign State or a foreign enterprise under an agreement approved by the Central Government in this behalf.

*Explanation.*—For the purpose of this clause, “foreign enterprise” means a person who is a non-resident;”

48. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

48a. Words “, not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999,” shall be substituted for “entered before the 1st day of April, 1997” by the Finance Act, 1999, w.e.f. 1-4-2000.

*Explanation.*—For the purposes of this clause, the expression “foreign enterprise” means a person who is a non-resident;]

<sup>49</sup>(16) <sup>50</sup>scholarships granted to meet the cost of education;

<sup>51</sup>[(17) any income by way of—

(i) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof; <sup>52</sup>[\* \* \*]

<sup>53</sup>[(ii) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

(iii) all other allowances not exceeding <sup>54</sup>[two thousand] rupees per month in the aggregate received by any person by reason of his membership of any State Legislature or of any Committee thereof, which the Central Government may, by notification<sup>55</sup> in the Official Gazette, specify in this behalf;]

49. See also Letter [F. No. 24/35/66-IT(A-I)], dated 4-10-1966, Letter [F. No. 24/2/69-IT(A-I)], dated 14-1-1968, Letter [F. No. 24/25/68-IT(A-I)], dated 18-9-1969, Letter [F. No. 24/22/67-IT(A-I)], dated 7-7-1967, Letter [F. No. 25/37/66-IT(A-I)], dated 2-12-1966, Letter [F. No. 24/7/64-IT(A-I)], dated 24-3-1964, Letter [F. No. 24/4/64-IT(A-I)], dated 12-2-1964, Letter [F. No. 24/34/62-IT(A-I)], dated 25-1-1963, Circular No. 3(XXIII-23), dated 12-1-1961, Circular No. 49 (XXIII-12), dated 13-12-1956, Income-tax Circulars, published by Directorate of Inspection (Research Statistics and Publication), 1968 edn., p. 89 and Circular No. 11 (XXIII-24), dated 4-4-1961. For details, see Taxmann’s Master Guide to Income-tax Act.

50. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

51. Substituted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1986. Prior to its substitution, clause (17), as amended by the Finance Act, 1976, w.e.f. 1-4-1976, read as under :

“(17) any daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof or any allowance received by a member of either House of Parliament under the Members of Parliament (Additional Facilities) Rules, 1975;”

52. “and” omitted by the Finance Act, 1987, w.r.e.f. 1-4-1986.

53. Substituted for the following sub-clause (ii) [earlier amended by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1986] by the Finance Act, 1987, w.r.e.f. 1-4-1986 :

“(ii) all other allowances not exceeding rupees twelve hundred and fifty per month in the aggregate received by any person by reason of his membership of Parliament or of any Committee thereof, or all other allowances not exceeding rupees six hundred per month in the aggregate received by any person by reason of his membership of any State Legislature or any Committee thereof which the Central Government may, by notification in the Official Gazette, specify in this behalf;”

54. Substituted for “six hundred” by the Finance Act, 1997, w.e.f. 1-4-1998.

55. For notified allowances, see Taxmann’s Master Guide to Income-tax Act.

- <sup>56</sup>[(17A)] <sup>57</sup>any payment made, whether in cash or in kind,—
- (i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or
  - (ii) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;]

**The following clause (18) shall be inserted after clause (17A) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000:**

- (18) any income by way of—
- (i) pension received by an individual who has been in the service of the Central or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf;
  - (ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

Explanation.—For the purposes of this clause, the expression “family” shall have the meaning assigned to it in the Explanation to clause (5);

(18A) <sup>58</sup>[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

(19) <sup>59</sup>[\* \* \*]

- <sup>60</sup>[(19A)] the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax

56. Substituted for clauses (17A), (17B) and (18) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original clauses (17A) and (17B) were inserted by the Direct Taxes (Amendment) Act, 1974, with retrospective effect from 1-4-1973. Clause (17A) was later on amended by the Finance Act, 1980, w.e.f. 1-4-1980. The aforesaid clauses, prior to their substitution, stood as under:

“(17A) any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific or artistic work or attainment or for service for alleviating the distress of the poor, the weak and the ailing, or for proficiency in sports and games, instituted by the Central Government or by any State Government or approved by the Central Government in this behalf:

**Provided** that the approval granted by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date of which such approval is granted) as may be specified in the order granting the approval;

(17B) any payment made, whether in cash or in kind, as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;

(18) any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government;”

57. For specified awards/rewards, see Taxmann’s Master Guide to Income-tax Act.

58. Prior to its omission, clause (18A), as inserted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 9-9-1972, read as under :

“(18A) any *ex gratia* payments made by the Central Government consequent on the abolition of privy purse;”

59. Omitted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 2-4-1973.

60. Inserted, *ibid.*, w.r.e.f. 28-12-1971.

before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

**Provided** that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;]

<sup>61</sup>(20) the income of a local authority which is chargeable under the head <sup>62</sup>[\* \* \*] “Income from house property”, “Capital gains” or “Income from other sources” or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service <sup>63</sup>[(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area];

<sup>64</sup>[<sup>65</sup>(20A) any income of an authority constituted in India by or under any law enacted 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;]

<sup>66</sup>[<sup>67</sup>(21) <sup>68</sup>any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35:

61. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

62. “Interest on securities,” omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

63. Substituted for “within its own jurisdictional area” by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

64. Inserted by the Finance Act, 1970, w.r.e.f. 1-4-1962.

65. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

66. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990. Earlier clause (21), as amended by the Finance Act, 1983, w.e.f. 1-4-1984, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, stood as under:

“(21) any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35 which is applied solely to the purposes of that association:

**Provided** that nothing contained in this clause shall apply if for any period during the previous year—

- (i) any sums by way of contributions received by the association are invested or deposited after the 28th day of February, 1983, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or
- (ii) any funds of the association invested or deposited before the 1st day of March, 1983, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or
- (iii) any shares in a company [not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a corporation established by or under a Central, State or Provincial Act] are held by the association after the 30th day of November, 1983;”

67. See also Circular No. 400, dated 19-10-1984 and Circular No. 584, dated 13-11-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

68. See rule 17 and Form No. 10, for notice of accumulation of income by charitable trust or institution [to be furnished before expiry of time allowed under section 139(1)].



**Provided** that the scientific research association—

- (a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—
- (i) in sub-section (2),—
    - (1) the words, brackets, letters and figure “referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section” shall be omitted;
    - (2) for the words “to charitable or religious purposes”, the words “for the purposes of scientific research” shall be substituted;
    - (3) the reference to “Assessing Officer” in clause (a) thereof shall be construed as a reference to the “prescribed authority” referred to in clause (ii) of sub-section (1) of section 35;
  - (ii) in sub-section (3), in clause (a), for the words “charitable or religious purposes”, the words “the purposes of scientific research” shall be substituted; and
- <sup>69</sup>[(b) does not invest or deposit its funds, other than—
- (i) any assets held by the scientific research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;
  - (ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the scientific research association before the 1st day of March, 1983;
  - (iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the scientific research association;
  - (iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

69. Substituted by the Finance Act, 1992, w.r.e.f. 1-4-1990. Prior to its substitution, clause (b) read as under :

“(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 :”

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:]

<sup>70</sup>[**Provided further** that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the first proviso to this clause, subject to the condition that such voluntary contribution is not held by the scientific research association, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:

**Provided also**] that nothing contained in this clause shall apply in relation to any income of the scientific research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business;]

(22) <sup>71</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(22A) <sup>72</sup>[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

<sup>73</sup>[(22B) any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification<sup>74</sup> in the Official Gazette, specify in this behalf:

**Provided** that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

70. Substituted for the words "Provided further" by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

71. Prior to its omission, clause (22) read as under :

"(22) any income of a university or other educational institution, existing solely for educational purposes and not for purposes of profit;"

72. Prior to its omission, clause (22A), as inserted by the Finance Act, 1970, w.e.f. 1-4-1970, read as under :

"(22A) any income of a hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit;"

73. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

74. For notified news agencies, *see* Taxmann's Master Guide to Income-tax Act.

**Provided further** that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;]

<sup>75</sup>[<sup>76</sup>(23)] <sup>77</sup>any income of an association or institution established in India which may be notified by the Central Government in the Official Gazette having regard to the fact that the association or institution has as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may, by notification in the Official Gazette, specify<sup>78</sup> in this behalf:

**Provided** that the association or institution shall make an application in the prescribed form<sup>79</sup> and manner to the prescribed authority<sup>80</sup> for the purpose of grant of the exemption, or continuance thereof, under this clause:

**Provided further** that the Central Government may, before notifying the association or institution under this clause, call for such documents (including audited annual accounts) or information from the association or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the association or institution

75. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990. Earlier clause (23), as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, stood as under:

“(23) any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may specify in this behalf from time to time by notification in the Official Gazette:

**Provided** that—

- (i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established;
- (ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it; and
- (iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order;”

76. See Circular No. 398, dated 17-10-1984 and Circular No. 584, dated 13-11-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

77. See rule 17 and Form No. 10, for notice of accumulation of income by charitable trust or institution [to be furnished before expiry of time allowed under section 139(1)].

78. For notified sports and sports associations/institutions, see Taxmann’s Master Guide to Income-tax Act.

79. See rule 2C and Form No. 55, for application by sports association or institution under section 10(23). See also Circular No. 557, dated 19-3-1990.

80. The prescribed authority under rule 2C(1) is Director General (Income-tax Exemptions).

and that Government may also make such inquiries as it may deem necessary in this behalf:

**Provided also** that the association or institution,—

(a) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure “referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section” shall be omitted;

(2) for the words “to charitable or religious purposes”, the words “for the purposes of games or sports” shall be substituted;

(3) the reference to “Assessing Officer” in clause (a) thereof shall be construed as a reference to the “prescribed authority” referred to in the first proviso to this clause;

(ii) in sub-section (3), in clause (a), for the words “charitable or religious purposes”, the words “the purposes of games or sports” shall be substituted; and

<sup>81</sup>[(b) does not invest or deposit its funds, other than—

(i) any assets held by the association or institution where such assets form part of the corpus of the fund of the association or institution as on the 1st day of June, 1973;

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

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the association or institution;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and]

81. Substituted by the Finance Act, 1992, w.r.e.f. 1-4-1990. Prior to substitution, clause (b) read as under:

“(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and”

(c) does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it:

**Provided also** that the exemption under this clause shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, <sup>82</sup>[1993]:

<sup>83</sup>[**Provided also** that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this clause, subject to the condition that such voluntary contribution is not held by the association or institution, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:]

**Provided also** that nothing contained in this clause shall apply in relation to any income of the association or institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

**Provided also** that any notification issued by the Central Government under this clause in relation to any association or institution shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued), as may be specified in the notification;]

<sup>84</sup>[<sup>85</sup>(23A) any income (other than income chargeable under the head <sup>86</sup>[\* \* \*] “Income from house property” or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession <sup>87</sup> as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette:

82. Substituted for “1992” by the Finance Act, 1992, w.e.f. 1-4-1992. Earlier “1992” was substituted for “1990” by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

83. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

84. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

85. See also Circular No. 584, dated 13-11-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

86. “Interest on securities” or omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

87. For specified professions, see Taxmann’s Master Guide to Income-tax Act.

**Provided that—**

- (i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and
- (ii) the association or institution is for the time being approved<sup>88</sup> for the purpose of this clause by the Central Government by general or special order;]

<sup>89</sup>[(23AA) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;]

<sup>90</sup>[(23AAA) any income received by any person on behalf of a fund established, for such purposes as may be notified<sup>91</sup> by the Board in the Official Gazette, for the welfare of employees or their dependants and of which fund such employees are members if such fund fulfils the following conditions, namely:—

- (a) the fund—
  - (i) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and
  - (ii) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;
- (b) the fund is approved by the Commissioner in accordance with the rules<sup>92</sup> made in this behalf:

**Provided that** any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval;]

<sup>93</sup>[(23AAB) any income of a fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 under a pension scheme,—

- (i) to which contribution is made by any person for the purpose of receiving pension from such fund;
- (ii) which is approved by the Controller of Insurance.

*Explanation.*—For the purposes of this clause, the expression “Controller of Insurance” shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938 (4 of 1938);]

<sup>94</sup>[(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or

88. For specified association/institution, see Taxmann’s Master Guide to Income-tax Act.

89. Inserted by the Finance (No. 2) Act, 1980, w.r.e.f. 1-4-1962.

90. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

91. For notified purposes, see Taxmann’s Master Guide to Income-tax Act.

92. See rule 16C and Form No. 9.

93. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

94. Inserted by the Finance Act, 1974, w.e.f. 1-6-1974.

under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for the purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

**Provided that**—

- (i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and
- (ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission:

**Provided further** that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted.

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

- (i) “Khadi and Village Industries Commission” means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956);
- (ii) <sup>95</sup>“khadi” and “village industries” have the meanings respectively assigned to them in that Act;]

<sup>96</sup>[(23BB) any income of an authority (whether known as the Khadi and Village Industries Board or by any other name) established in a State by or under a State or Provincial Act for the development of khadi or village industries in the State.

*Explanation.*—For the purposes of this clause, <sup>95</sup>“khadi” and “village industries” have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956);]

<sup>96</sup>[(23BBA) any income of any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central, State or Provincial Act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments (including *maths*, temples, *gurdwaras*, *wakfs*, churches, synagogues, *agiaries* or other places of public religious worship) or societies for religious or charitable purposes registered as such under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force:

95. Clauses (d) and (h) of section 2 of the Khadi and Village Industries Commission Act, 1956, define “khadi” and “village industries” as follows :

- ‘(d) “khadi” means any cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India or from a mixture of any two or all of such yarns;
- (h) “village industries” means all or any of the industries specified in the Schedule and includes any other industry deemed to be specified in the Schedule by reason of a notification under section 3.’

96. Inserted by the Finance Act, 1979, w.r.e.f. 1-4-1962.

**Provided** that nothing in this clause shall be construed to exempt from tax the income of any trust, endowment or society referred to therein;]

<sup>97</sup>[(23BBB) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme<sup>98</sup> as the Central Government may, by notification in the Official Gazette, specify in this behalf.

*Explanation.*—For the purposes of this clause, “European Economic Community” means the European Economic Community established by the Treaty of Rome of 25th March, 1957;]

<sup>99</sup>[(23BBC) any income of the SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;]

<sup>1</sup>[(23C) any income received by any person on behalf of—

- (i) the Prime Minister’s National Relief Fund; or
- (ii) the Prime Minister’s Fund (Promotion of Folk Art); or
- (iii) the Prime Minister’s Aid to Students Fund; <sup>3</sup>[or]

<sup>4</sup>[(iiia) the National Foundation for Communal Harmony; or]

<sup>5</sup>[(iiib) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiic) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit and which is wholly or substantially financed by the Government; or

(iiid) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed <sup>5a</sup>; or

97. Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

98. For notified schemes, see Taxmann’s Master Guide to Income-tax Act.

99. Inserted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1992.

1. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

2. See also Circular No. 557, dated 19-3-1990, Circular No. 580, dated 14-9-1990, Circular No. 584, dated 13-11-1990 and Circular No. 745, dated 19-7-1996. For details, see Taxmann’s Master Guide to Income-tax Act.

3. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

4. Inserted by the Finance Act, 1993, w.e.f. 1-4-1993.

5. Sub-clauses (iiib) to (iiiae) inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

5a. Amount prescribed is Rs. 1 crore vide rule 2BC.



- (iii<sup>ae</sup>) *any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed<sup>5b</sup>; or]*
- <sup>6</sup>[(iv) any other fund or institution established for charitable purposes which may be notified<sup>7</sup> by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or
- (v) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified<sup>8</sup> by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof;
- <sup>9</sup>[(vi) *any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iii<sup>ab</sup>) or sub-clause (iii<sup>ad</sup>) and which may be approved by the prescribed authority<sup>9a</sup>; or*
- (vi<sup>a</sup>) *any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (iii<sup>ac</sup>) or sub-clause (iii<sup>ae</sup>) and which may be approved by the prescribed authority<sup>9a</sup> .]*

5b. Amount prescribed is Rs. 1 crore *vide* rule 2BC.

6. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990. Earlier, sub-clauses (iv) and (v), were amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

7. For complete list of approved funds/institutions, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.237-1.324A.

8. For complete list of approved trusts/institutions, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.324B-1.386.

9. Sub-clauses (vi) and (vi<sup>a</sup>) inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

9a. Prescribed authority is CBDT. *See* rule 2CA and Form No. 56D.

**Provided** that the fund or trust or institution <sup>10</sup>[*or any university or other educational institution or any hospital or other medical institution*] referred to in sub-clause (iv) or sub-clause (v) <sup>10</sup>[*or sub-clause (vi) or sub-clause (via)*] shall make an application in the prescribed form<sup>11</sup> and manner to the prescribed authority<sup>12</sup> for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v) <sup>10</sup>[*or sub-clause (vi) or sub-clause (via)*] :

<sup>12a</sup>[**Provided further** that the Central Government, before notifying the fund or trust or institution, or the prescribed authority, before approving any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the Central Government or the prescribed authority, as the case may be, may also make such inquiries as it deems necessary in this behalf: ]

**Provided also** that the fund or trust or institution <sup>13</sup>[*or any university or other educational institution or any hospital or other medical institution*] referred to in sub-clause (iv) or sub-clause (v) <sup>13</sup>[*or sub-clause (vi) or sub-clause (via)*]—

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

10. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

11. See rule 2C(3) and Form No. 56.

12. The prescribed authority under rule 2C(1) is Director General (Income-tax Exemptions).

12a. Substituted by the Finance Act, 1999, w.e.f. **1-4-1999**. Prior to its substitution, the second proviso, as amended by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**, read as under :

“**Provided further** that the Central Government may, before notifying the fund or trust or institution or any university or other educational institution or any hospital or other medical institution under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution and that Government may also make such inquiries as it may deem necessary in this behalf :”

13. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

<sup>14</sup>[(b) does not invest or deposit its funds, other than—

- (i) any assets held by the fund, trust or institution <sup>14a</sup>[*or any university or other educational institution or any hospital or other medical institution*] where such assets form part of the corpus of the fund, trust or institution <sup>14a</sup>[*or any university or other educational institution or any hospital or other medical institution*] as on the 1st day of June, 1973;
- (ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution <sup>14a</sup>[*or any university or other educational institution or any hospital or other medical institution*] before the 1st day of March, 1983;
- (iii) any accretion to the shares, forming part of the corpus mentioned in sub-clause (i), by way of bonus shares allotted to the fund, trust or institution <sup>14a</sup>[*or any university or other educational institution or any hospital or other medical institution*];
- (iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify, for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:]

**Provided also** that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, <sup>15</sup>[1993]:

<sup>16</sup>[**Provided also** that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001 :]

<sup>17</sup>[**Provided also** that the exemption under sub-clause (iv) or sub-clause (v) <sup>16</sup>[*or sub-clause (vi) or sub-clause (via)*] shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this sub-clause, subject to the

14. Substituted by the Finance Act, 1992, w.r.e.f. 1-4-1990.

14a. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

15. Substituted for “1992” by the Finance Act, 1992, w.e.f. 1-4-1992. Earlier “1992” was substituted for “1990” by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

16. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

17. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

condition that such voluntary contribution is not held by the trust or institution <sup>18</sup>[*or any university or other educational institution or any hospital or other medical institution*], otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:]

**Provided also** that nothing contained in sub-clause (iv) or sub-clause (v) <sup>18</sup>[*or sub-clause (vi) or sub-clause (via)*] shall apply in relation to any income of the fund or trust or institution <sup>18</sup>[*or any university or other educational institution or any hospital or other medical institution*], being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

**Provided also** that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;]

<sup>19</sup>[(23D) <sup>20</sup>[<sup>20a</sup>[*any income of—*]

- (i) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder;
- (ii) such other Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification<sup>21</sup> in the Official Gazette, specify in this behalf.]

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

- (a) the expression “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corres-

18. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

19. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

20. Substituted for the portion beginning with the words “any income of such Mutual Fund” and ending with the words “specify in this behalf” by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to substitution, the said portion, as amended by the Finance Act, 1988, w.e.f. 1-4-1988, the Direct Tax Laws (Amendment) Act, 1989, w.r.e.f. 1-4-1988 and the Finance Act, 1992, w.e.f. 1-4-1993, read as under:

“any income of such Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Securities and Exchange Board of India or the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.”

20a. Words “subject to the provisions of Chapter XII-E, any income of—” shall be substituted for “any income of—” by the Finance Act, 1999, w.e.f. 1-4-2000.

21. For notified mutual funds, see Taxmann’s Master Guide to Income-tax Act.

ponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(b) the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956)<sup>22</sup>;

<sup>23</sup>[(c) the expression <sup>24</sup>“Securities and Exchange Board of India” shall have the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

<sup>25</sup>[(23E) any income of such Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately, as the Central Government may, by notification<sup>26</sup> in the Official Gazette, specify in this behalf:

**Provided** that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a public financial institution, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

*Explanation.*—For the purposes of this clause, the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956)<sup>27</sup>;

<sup>28</sup>[(23F) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

**Provided** that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority<sup>29</sup> in accordance with the rules<sup>30</sup> made in this behalf and satisfies the prescribed conditions:

22. For text of section 4A of the Companies Act, 1956, and notified institutions thereunder, *see* **Appendix One.**

23. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

24. Clause (a) of section 2(1) of the Securities and Exchange Board of India Act, 1992, defines “Board” as follows:

‘(a) “Board” means the Securities and Exchange Board of India established under section 3;’

25. Inserted by the Finance Act, 1989, w.e.f. 1-4-1989.

26. For specified exchange risk administration fund, *see* Taxmann’s Master Guide to Income-tax Act.

27. For text of section 4A of the Companies Act, 1956, and notified institutions thereunder, *see* **Appendix One.**

28. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

29. Prescribed authority is Director of Income-tax (Exemptions).

30. *See* rule 2D and Form Nos. 56A, 56B and 56C.

**Provided further** that any approval by the prescribed authority shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval:

**The following third proviso shall be inserted after the second proviso to clause (23F) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000 :**

**Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.**

<sup>31</sup>[\* \* \*]

<sup>31</sup>[\* \* \*]

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

- (a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;
- (b) “venture capital company” means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and
- <sup>32-33</sup>(c) “*venture capital undertaking*” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or

31. Third and fourth provisos omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to their omission, the third and fourth provisos, as inserted by the Finance Act, 1995, w.e.f. 1-4-1996, read as under, respectively :

“**Provided also** that if the aforesaid equity shares are transferred (other than in the event of the said shares being listed in a recognised stock exchange in India) by a venture capital fund or a venture capital company to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of income by way of dividends on such equity shares which has not been included in the total income of the previous year or years preceding the previous year in which such transfer has taken place shall be deemed to be the income of the venture capital fund or of the venture capital company of the previous year in which such transfer has taken place:

**Provided also** that the exemption shall not be allowed in respect of the long-term capital gains, if any, arising on such transfer of equity shares as is mentioned in the third proviso.”

32-33. Clauses (c) and (d) substituted for clause (c) by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to substitution, clause (c), as amended by the Finance Act, 1997, w.e.f. 1-4-1998, read as under :

- (c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or business of providing telecommunication services or in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;”

*engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified<sup>34</sup> by the Central Government in this behalf;*

- (d) “infrastructure facility” means road, highway, bridge, airport, port, rail system, water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;]

**The following clause (23FA) shall be inserted after clause (23F) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000 :**

- (23FA) *any income by way of dividends, other than dividends referred to in section 115-O, or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :*

**Provided** *that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules made in this behalf and which satisfies the prescribed conditions :*

**Provided further** *that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval.*

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

- (a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;
- (b) “venture capital company” means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and
- (c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—
- (i) *business of—*
- (A) *software;*
- (B) *information technology;*
- (C) *production of basic drugs in the pharmaceutical sector;*
- (D) *bio-technology;*
- (E) *agriculture and allied sectors; or*

34. For notified articles or things, see Taxmann’s Master Guide to Income-tax Act.

(F) *such other sectors as may be notified by the Central Government in this behalf; or*

(ii) *production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology;*

<sup>35</sup>[(23G) *any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made on or after the 1st day of June, 1998 by way of shares or long-term finance in any enterprise wholly engaged in <sup>35a</sup>[the business of developing, maintaining and operating] any infrastructure facility and which has been approved by the Central Government on an application made by it in accordance with the rules<sup>35b</sup> made in this behalf and which satisfies the prescribed conditions.*

35. Substituted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**. Prior to its substitution, clause (23G), as inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997 and later on amended by the Finance Act, 1997, w.e.f. 1-4-1998, read as under :

(23G) any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility.

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

- (a) “infrastructure capital company” means such company as has made investments by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;
- (b) “infrastructure capital fund” means such fund operating under a trust deed, registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;
- (c) “infrastructure facility” means—
  - (i) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette which fulfils the conditions specified in sub-section (4A) of section 80-IA;
  - (ii) a water supply project, irrigation project, sanitation and sewerage system which fulfils the conditions specified in sub-section (4A) of section 80-IA ;
  - (iii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after 1st day of April, 1993;
  - (iv) a project for providing telecommunication services on or after the 1st day of April, 1995;
- (d) “long-term finance” shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;

35a. Words “the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating” shall be substituted for “the business of developing, maintaining and operating” by the Finance Act, 1999, w.e.f. **1-4-2000**.

35b. See rule 2E and Form No. 56E.



<sup>35c</sup>[Explanation 1.]—*For the purposes of this clause,—*

- (a) *“infrastructure capital company” means such company as has made investments by way of acquiring shares or providing long term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;*
- (b) *“infrastructure capital fund” means such fund operating under a trust deed, registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;*
- (c) *“infrastructure facility” means—*
  - (i) *a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in <sup>36</sup>[sub-section (4A)] of section 80-IA;*
  - (ii) *a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;*

**The following sub-clause (ii) shall be substituted for existing sub-clause (ii) of clause (c) of Explanation 1 to clause (23G) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000:**

- (ii) *an industrial undertaking which—*
  - (a) *is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2003;*
  - (b) *starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2003;*
- (iii) *a project for providing telecommunication services on or after the 1st day of April, 1995;*
- (iv) *a project for housing which fulfils the conditions specified in sub-section (4F) of section 80-IA;*

<sup>35c</sup>. Explanation numbered as Explanation 1 by the Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999.

36. Words “sub-clause (i) of sub-section (4)” shall be substituted for “sub-section (4A)” by the Finance Act, 1999, w.e.f. 1-4-2000.

**The following sub-clauses (iv) and (v) shall be substituted for the existing sub-clause (iv) of clause (c) of Explanation 1 to clause (23G) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000:**

- (iv) *a project for housing which fulfils the conditions specified in sub-section (10) of section 80-IB;*
- (v) *an undertaking for developing, developing and operating or maintaining and operating an industrial park notified by the Central Government under clause (iii) of sub-section (4) of section 80-IA;*

(d) *“long-term finance” shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;]*

<sup>37</sup>[Explanation 2.—*For the removal of doubts, it is hereby declared that any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made before the 1st day of June, 1998 by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility shall not be included and the provisions of this clause as it stood immediately before its amendment by the Finance (No. 2) Act, 1998 (21 of 1998) shall apply to such income;]*

<sup>38</sup>[<sup>39</sup>(24) any income chargeable under the heads “Income from house property” and “Income from other sources” of—

- (a) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;
  - (b) an association of registered unions referred to in sub-clause (a);]
- (25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities;
- (ii) any income received by the trustees on behalf of a recognised provident fund;
- (iii) any income received by the trustees on behalf of an approved superannuation fund;

37. Inserted by the Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999.

38. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, clause (24), as amended by the Finance Act, 1988, w.e.f. 1-4-1989, read as under :

‘(24) any income chargeable under the heads “Income from house property” and “Income from other sources” of a registered union within the meaning of the Indian Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;’

39. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

<sup>40</sup>[(iv) any income received by the trustees on behalf of an approved gratuity fund;]

<sup>41</sup>[(v) any income received—

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

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

<sup>42</sup>[(25A) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);]

<sup>43</sup>[(26) <sup>44</sup>in the case of a member of a <sup>45</sup>Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the <sup>46</sup>[States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura] or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (18 of 1971)] <sup>47</sup>[or in the *Ladakh region of the State of Jammu and Kashmir*], any income which accrues or arises to him,—

(a) from any source in the areas <sup>48</sup>[or States aforesaid], or

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

<sup>49</sup>[(26A) any income accruing or arising to any person <sup>50</sup>[\*\*\*] from any source in the district of Ladakh or outside India in any previous year relevant

40. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

41. Inserted by the Labour Provident Fund Laws (Amendment) Act, 1976, w.e.f. 1-8-1976.

42. Inserted by the Finance Act, 1995, w.r.e.f. 1-4-1962.

43. Substituted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, with retrospective effect from 21-1-1972. Earlier, clause (26) was amended first by the State of Nagaland (Adaptation of Laws on Union Subjects) Order, 1965, with retrospective effect from 1-12-1963 and then by the Taxation Laws (Amendment) Act, 1970, with retrospective effect from 1-4-1962.

44. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

45. Clause (25) of article 366 of the Constitution defines "Scheduled Tribes" as under:

'(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;'

46. Substituted for "States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram" by the Finance Act, 1994, w.e.f. 1-4-1995.

47. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

48. Substituted for "States or Union territories aforesaid" by the Finance Act, 1994, w.e.f. 1-4-1995.

49. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

50. "(not being an individual who is in the service of Government)" omitted by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1962.

to any assessment year commencing before the 1st day of April, <sup>51</sup>[1989], where such person is resident in the said district in that previous year :

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

<sup>52</sup>[*Explanation 1*].—For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4)\* of section 6, as the case may be, subject to the modifications that—

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

<sup>53</sup>[*Explanation 2*.—In this clause, references to the district of Ladakh shall be construed as references to the areas comprised in the said district on the 30th day of June, 1979;]

(26AA) <sup>54</sup>[\* \* \*]

51. Substituted for “1986” by the Finance Act, 1985, w.e.f. 1-4-1985. Earlier “1986” was substituted for “1983” by the Finance Act, 1983, w.e.f. 1-4-1983, “1983” was substituted for “1980” by the Finance Act, 1980, w.e.f. 1-4-1980, “1980” was substituted for “1975” by the Finance (No. 2) Act, 1977, with retrospective effect from 1-4-1975 and “1975” was substituted for “1970” by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1970.

52. Existing *Explanation* renumbered as *Explanation 1* by the Finance Act, 1983, w.r.e.f. 1-4-1980.

53. Inserted, *ibid*.

54. Omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to its omission, clause (26AA), as inserted by the Finance Act, 1989, w.e.f. 1-4-1990, read as under :

“(26AA) any income of a person by way of winnings from any lottery, the draw of which is held in pursuance of any agreement entered into on or before the 28th day of February, 1989 between the State Government of Sikkim and the organising agents of such lottery, where such person is resident in the State of Sikkim in any previous year.

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

- (i) references in those clauses to India shall be construed as references to the State of Sikkim; and
- (ii) in sub-clause (i) of clause (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Sikkim and having its registered office in that State in that year;”

\*Should be read as clause (1), etc.

<sup>55</sup>[(26B) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the <sup>56</sup>[members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them].

<sup>57</sup>[*Explanation.*—For the purposes of this clause,—

- (a) <sup>58</sup>“Scheduled Castes” and <sup>59</sup>“Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;
- (b) “backward classes” means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—
  - (i) by the Central Government; or
  - (ii) by any State Government, as the case may be, from time to time;]

<sup>60</sup>[(26BB) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

*Explanation.*—For the purposes of this clause, “minority community” means a community notified<sup>61</sup> as such by the Central Government in the Official Gazette in this behalf;]

<sup>62</sup>[(27) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26B) :

**Provided** that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the

55. Inserted by the Finance Act, 1980, w.r.e.f. 1-4-1972.

56. Substituted for “members of either the Scheduled Castes or the Scheduled Tribes or of both” by the Finance Act, 1994, w.r.e.f. 1-4-1993.

57. Substituted by the Finance Act, 1994, w.r.e.f. 1-4-1993. Earlier *Explanation*, as inserted by the Finance Act, 1980, w.r.e.f. 1-4-1972, read as under :

‘*Explanation.*—For the purposes of this clause, “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;’

58. Clause (24) of article 366 of the Constitution defines “Scheduled Castes” as under :

‘(24) “Scheduled Castes” means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;’

59. For definition of “Scheduled Tribes”, see footnote 45 on p. 1.86 *ante*.

60. Inserted by the Finance Act, 1995, w.e.f. 1-4-1995.

61. For notified minority communities, see Taxmann’s Master Guide to Income-tax Act.

62. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1989. Earlier clause (27) was omitted by the Finance Act, 1975, w.e.f. 1-4-1976 and re-enacted in section 80JJ with modification. Originally, clause (27) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and later on amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

finances of the society are provided by the Government and such other societies;]

(28) <sup>63</sup>[\* \* \*]

<sup>64</sup>[(29) <sup>65</sup>in the case of an authority constituted under any law for the time being in force for the marketing of commodities, any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities;]

<sup>65a</sup>[(29A) *any income accruing or arising to—*

- (a) *the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;*
- (b) *the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;*
- (c) *the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;*
- (d) *the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later;*
- (e) *the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later;*
- (f) *the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;*

63. Omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to its omission, clause (28) as inserted by the Finance Act, 1965, w.e.f. 1-4-1965 and substituted by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965, read as under :

“(28) any amount adjusted or paid in respect of a tax credit certificate under the provisions of Chapter XXIIB and any scheme made thereunder;”

64. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

65. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

65a. Inserted by the Finance Act, 1999, with effect from the date on which the Finance Bill, 1999, receives the assent of the President.

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

<sup>66</sup>[(30) <sup>67</sup>in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme<sup>68</sup> for replantation or replacement of tea bushes <sup>69</sup>[or for rejuvenation or consolidation of areas used for cultivation of tea] as the Central Government may, by notification in the Official Gazette, specify:

**Provided** that the assessee furnishes to the <sup>70</sup>[Assessing] Officer, along with his return of income for the assessment year concerned or within such further time as the <sup>70</sup>[Assessing] Officer may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

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

<sup>71</sup>[(31) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

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

*Explanation.*—In this clause, “concerned Board” means,—

- (i) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),
- (ii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),
- (iii) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

66. Inserted by the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1969.

67. See rule 8(2).

68. For specified schemes, see Taxmann’s Master Guide to Income-tax Act.

69. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

70. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

71. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

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

<sup>72</sup>[(32) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;]

<sup>73</sup>[(33) any income by way of dividends referred to in section 115-O.]

**The following clause (33) shall be substituted for the existing clause (33) of section 10 by the Finance Act, 1999, w.e.f. 1-4-2000:**

(33) *any income by way of—*

- (i) *dividends referred to in section 115-O; or*
- (ii) *income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963); or*
- (iii) *income received in respect of the units of a mutual fund specified under clause (23D).*

<sup>74</sup>[**Special provision in respect of newly established industrial undertakings in free trade zones.**<sup>75</sup>

**10A.** (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking to which this section applies shall not be included in the total income of the assessee.

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

- <sup>76</sup>[(i) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year—

  - (a) commencing on or after the 1st day of April, 1981, in any free trade zone; or
  - (b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park or, as the case may be, software technology park;]

72. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

73. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

74. Inserted by the Finance Act, 1981, w.e.f. 1-4-1981.

75. See also Circular No. 694, dated 22-11-1994. For details, see Taxmann's Master Guide to Income-tax Act.

76. Substituted by the Finance Act, 1993, w.e.f. 1-4-1994. Prior to substitution, clause (i) read as under :

“(i) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year commencing on or after the 1st day of April, 1981, in any free trade zone;”



<sup>77</sup>[(*ia*) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1995, its exports of such articles or things are not less than seventy-five per cent of the total sales thereof during the previous year;]

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

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

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

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

<sup>78</sup>[(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of any <sup>79</sup>[*ten*] consecutive assessment years, <sup>80</sup>[\* \* \*] beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things <sup>80</sup>[\* \* \*]

<sup>81</sup>[\* \* \*]

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

(*i*) section 32, section 32A, section 33, section 35 and clause (*ix*) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial

77. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

78. Substituted for the following sub-section (3) by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987:

“(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the four assessment years immediately succeeding the initial assessment year.”

79. Substituted for “five” by the Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999.

80. Words “falling within a period of eight years” and words “, specified by the assessee at his option” omitted, *ibid*.

81. Proviso omitted, *ibid*. Prior to its omission, the proviso, as inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987, read as under:

“**Provided** that nothing in this sub-section shall be construed to extend the aforesaid five assessment years to cover any period after the expiry of the said period of eight years.”

undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

- (ii) no loss referred to in sub-section (1) of section 72 or sub-section (1)<sup>82</sup>[or sub-section (3)] of section 74 and no deficiency referred to in sub-section (3) of section 80J, in so far as such loss or deficiency relates to the business of the industrial undertaking, shall be carried forward or set off where such loss, or, as the case may be, deficiency relates to any of the relevant assessment years;
- (iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I<sup>83</sup>[or section 80-IA]<sup>83a</sup>[*or section 80-IB*] or section 80J in relation to the profits and gains of the industrial undertaking; and
- (iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where an industrial undertaking in any free trade zone has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing on or after the 1st day of April, 1977, but before the 1st day of April, 1981, the assessee may, at his option, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year commencing on the 1st day of April, 1981, furnish to the<sup>84</sup>[Assessing Officer] a declaration in writing that the provisions of sub-section (1) may be made applicable to him for each of the relevant assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1981, and if he does so, then the provisions of sub-section (1) shall apply to him for each of such relevant assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of the relevant assessment years and any subsequent assessment year.

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

82. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

83. Inserted by the Finance Act, 1993, w.r.e.f. 1-4-1991.

83a. The italicised words shall be inserted by the Finance Act, 1999, w.e.f. **1-4-2000**.

84. Substituted for "Income-tax Officer" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, <sup>85</sup>[before the due date for furnishing the return of income under sub-section (1) of section 139] <sup>86</sup>[\*\*\*], furnishes to the <sup>87</sup>[Assessing] Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

<sup>88</sup>[(8) References in sub-section (5) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.]

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

(i) “free trade zone” means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification<sup>89</sup> in the Official Gazette, specify for the purposes of this section;

<sup>90</sup>[(ii) “*relevant assessment years*” means the ten consecutive assessment years referred to in sub-section (3);]

<sup>91</sup>[(iii) “manufacture” includes any—

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device;]

<sup>92</sup>[(iv) “electronic hardware technology park” means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce;

(v) “software technology park” means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce;

(vi) “produce”, in relation to articles or things referred to in clause (i) of sub-section (2), includes production of computer programmes.]

85. Substituted for “before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income” by the Finance Act, 1988, w.e.f. 1-4-1989.

86. “for the initial assessment year” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987.

87. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

88. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 as amended by the Finance Act, 1988 from the same date.

89. For specified free trade zones, *see* Taxmann’s Master Guide to Income-tax Act.

90. Substituted by the Income-tax (Second Amendment) Act, 1998, w.e.f. **1-4-1999**. Prior to its substitution, clause (ii), as substituted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987, read as under :

‘(ii) “relevant assessment years” means the five consecutive assessment years specified by the assessee at his option under sub-section (3);’

91. Inserted by the Finance Act, 1987, w.r.e.f. 1-4-1981.

92. Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

<sup>93</sup>[Special provision in respect of newly established hundred per cent export-oriented undertakings.

**10B.** (1) Subject to the provisions of this section, any profits and gains derived by an assessee from a hundred per cent export-oriented undertaking (hereafter in this section referred to as the undertaking) to which this section applies shall not be included in the total income of the assessee.

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

(i) it manufactures or produces any article or thing;

<sup>94</sup>[(i) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1994, its exports of such articles and things are not less than seventy-five per cent of the total sales thereof during the previous year;]

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

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

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

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

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of any <sup>95</sup>[ten] consecutive assessment years, <sup>96</sup>[\* \* \*] beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things.

<sup>97</sup>[\* \* \*]

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

(i) section 32, section 32A, section 33 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to

93. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

94. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

95. Substituted for “five” by the Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999.

96. Words “falling within a period of eight years” and words “, specified by the assessee at his option” omitted, *ibid*.

97. Proviso omitted, *ibid*. Prior to its omission, proviso, as inserted by the Finance Act, 1988, w.e.f. 1-4-1989, read as under:

“**Provided** that nothing in this sub-section shall be construed to extend the aforesaid five assessment years to cover any period after the expiry of the said period of eight years.”

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

- (ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;
- (iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I<sup>98</sup>[or section 80-IA]<sup>98a</sup>[or section 80-IB] in relation to the profits and gains of the undertakings; and
- (iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where the undertaking has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing before the 1st day of April, 1989, the assessee may, at his option, before the due date for furnishing the return of his income under sub-section (1) of section 139 for the assessment year commencing on the 1st day of April, 1989, furnish to the Assessing Officer a declaration in writing that the provisions of sub-section (1) may be made applicable to him for any five consecutive assessment years falling within a period of eight years beginning with the assessment year commencing on the 1st day of April, 1989, and if he does so, then, the provisions of sub-section (1) shall apply to him for each of such assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of such assessment years and any subsequent assessment year.

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

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made

98. Inserted by the Finance Act, 1993, w.r.e.f. 1-4-1991.

98a. The italicised words shall be inserted by the Finance Act, 1999, w.e.f. **1-4-2000**.

applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

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

(i) “hundred per cent export-oriented undertaking” means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14<sup>99</sup> of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

<sup>1</sup>[(ii) “*relevant assessment years*” means the ten consecutive assessment years referred to in sub-section (3);]

(iii) “manufacture” includes any—

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device;]

<sup>2</sup>[(iv) “produce”, in relation to any article or thing referred to in clause (i) of sub-section (2) includes production of computer programmes.]

<sup>2a</sup>[**Special provision in respect of certain industrial undertakings in North-Eastern Region.**

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

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

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

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

99. For text of section 14 of the Industries (Development and Regulation) Act, 1951, see **Appendix One.**

1. Substituted by the Income-tax (Second Amendment) Act, 1998, w.e.f. **1-4-1999.** Prior to its substitution, clause (ii), read as under :

“(ii) ‘relevant assessment years’ means the five consecutive assessment years specified by the assessee at his option under sub-section (3) or sub-section (5), as the case may be;”

2. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

2a. Inserted by the Finance Act, 1999, w.e.f. **1-4-1999.**

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

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

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

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

- (i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction;*
- (ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;*
- (iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and*
- (iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.*

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

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

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

- (i) “*Integrated Infrastructure Development Centre*” means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section;
- (ii) “*Industrial Growth Centre*” means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;
- (iii) “*North-Eastern Region*” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;
- (iv) “*relevant assessment years*” means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.]

<sup>3</sup>**Income from property held for charitable or religious purposes.**

<sup>4</sup>**11.** (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

- <sup>5</sup>[(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent of the income from such property;
- (b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent of the income from such property;]

3. Section 11, which was omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, was reintroduced by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date with modifications.

4. See also Circular No. 100, dated 24-1-1973, Circular No. 273, dated 3-6-1980, Circular No. 52, dated 30-12-1970, Circular No. 12-P (LXX-7 of 1968), dated 26-11-1968, Circular No. 5-P (LXX-6 of 1968), dated 19-6-1968, Circular No. 566, dated 17-7-1990, Circular No. 584, dated 13-11-1990; Instruction No. 1132, dated 5-1-1978 and relevant extracts from Official Minutes of Twelfth Meeting of Direct Taxes Advisory Committee (Central) held in New Delhi on 17-8-1968. For details, see Taxmann’s Master Guide to Income-tax Act. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

5. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, clauses (a) and (b) were amended by the Finance Act, 1970, w.e.f. 1-4-1971.



- (c) income <sup>6</sup>[derived] from property held under trust—
- (i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and
  - (ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

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

- <sup>7</sup>[(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.]

<sup>8</sup>[*Explanation.*—For the purposes of clauses (a) and (b),—

- (1) in computing the twenty-five per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;
- (2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of seventy-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—
  - (i) for the reason that the whole or any part of the income has not been received during that year, or
  - (ii) for any other reason, then—
    - (a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and
    - (b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1) <sup>9</sup>[\* \* \*] of section 139 <sup>10</sup>[\* \* \*]) for furnishing the return of income) be deemed to be income applied to such purposes during

6. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

7. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

8. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, the *Explanation* was also substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

9. “or sub-section (2)” omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

10. “, whether fixed originally or on extension” omitted, *ibid.*

the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.]

<sup>11</sup>[(1A) For the purposes of sub-section (1),—

- (a) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—
  - (i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain ;
  - (ii) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;
- (b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—
  - (i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;
  - (ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

*Explanation.*—In this sub-section,—

- (i) “appropriate fraction” means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;
- (ii) “cost of the transferred asset” means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any

11. Inserted by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1962.

improvement thereto within the meaning assigned to that expression in sub-clause (b) of clause (1) of section 55;

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

<sup>12</sup>[(1B) Where any income in respect of which an option is exercised under clause (2) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

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

<sup>13</sup>[(2) <sup>14</sup>[Where seventy-five per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—]

- (a) such person specifies, by notice in writing given to the <sup>15</sup>[Assessing] Officer in the prescribed<sup>16</sup> manner, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

- <sup>17</sup>[(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5)]:]

<sup>18</sup>[**Provided** that in computing the period of ten years referred to in clause (a), the period during which the income could not be applied for the purpose for which

12. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

13. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

14. Substituted for the portion beginning with “Where any income referred to in” and ending with “are complied with, namely :—” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

15. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

16. See rule 17 and Form No. 10 for notice of accumulation of income by charitable trust or institution [to be furnished before expiry of time allowed under section 139(1)].

17. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause (b) was earlier amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

18. Inserted by the Finance Act, 1993, w.r.e.f. 1-4-1962.

it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.]

<sup>19</sup>[(3) Any income referred to in sub-section (2) which—

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

<sup>20</sup>[(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or]

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

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

<sup>21</sup>[(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the <sup>22</sup>[Assessing] Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the <sup>23</sup>[Assessing] Officer under clause (a) of sub-section (2).]

(4) For the purposes of this section “property held under trust” includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the <sup>24</sup>[Assessing] Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes <sup>25</sup>[\* \* \*].

19. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

20. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983.

21. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

22. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

23. Substituted for “Income-tax”, *ibid.*

24. Substituted for “Income-tax”, *ibid.*

25. “and accordingly chargeable to tax within the meaning of sub-section (3)” omitted by the Finance Act, 1970, w.e.f. 1-4-1971.

<sup>26</sup>[(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.]

<sup>27</sup>[<sup>28</sup>(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely :—

- (i) investment in <sup>29</sup>savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;
- (ii) deposit in any account with the Post Office Savings Bank;
- (iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

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

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

26. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to its substitution, sub-section (4A), as inserted by the Finance Act, 1983, w.e.f. 1-4-1984, read as under:

“(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income, being profits and gains of business, unless—

- (a) the business is carried on by a trust wholly for public religious purposes and the business consists of printing and publication of books or publication of books or is of a kind notified by the Central Government in this behalf in the Official Gazette; or
- (b) the business is carried on by an institution wholly for charitable purposes and the work in connection with the business is mainly carried on by the beneficiaries of the institution,

and separate books of account are maintained by the trust or institution in respect of such business.”

27. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

28. See also Circular No. 566, dated 17-7-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

29. Clause (c) of section 2 of the Government Savings Certificates Act, 1959, defines “savings certificates” as under:

‘(c) “savings certificate” means a savings certificate to which this Act applies.’

Section 1(3) provides that the Act would apply to such class of savings certificates as the Central Government specifies by notification in the Official Gazette.

- (v) investment in any security for money created and issued by the Central Government or a State Government;
- (vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;
- (vii) investment or deposit in any <sup>30</sup>[public sector company];
- (viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;
- (ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;
- (x) investment in immovable property.

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

<sup>31</sup>[(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);]

<sup>32</sup>[(xii) any other form or mode of investment or deposit as may be prescribed.<sup>33</sup>]

<sup>34</sup>[**Income of trusts or institutions from contributions.**

<sup>35</sup>**12.** <sup>36</sup>Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for

30. Substituted for “Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

31. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

32. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

33. Rule 17C specifies the following other modes: (1) Investments in units issued under any scheme of mutual fund referred to in section 10(23D); (2) Any transfer of deposits to Public Account of India; (3) Deposits made with an authority constituted in India by or under any law enacted 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; and (4) investment by way of acquiring equity shares of a ‘depository’.

34. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12 was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12 was substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

35. See also Circular No. 584, dated 13-11-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

36. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.]

<sup>37</sup>[**Conditions as to registration of trusts, etc.**

<sup>38</sup>**12A.** <sup>39</sup>The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form<sup>40</sup> and in the prescribed manner to the <sup>41</sup>[\*\*\*] Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, <sup>42</sup>[whichever is later and such trust or institution is registered under section 12AA]:

<sup>43</sup>[**Provided** that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

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37. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12A was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12A was inserted by the Finance Act, 1972, w.e.f. 1-4-1973.
38. See Circular No. 143, dated 20-8-1974 and CBDT Instruction, dated 9-2-1978. For details, see Taxmann's Master Guide to Income-tax Act.
39. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.
40. See rule 17A and Form No. 10A for form of application for registration of charitable/religious trust, and the necessary accompanying documents, viz., 1. Original copy of instrument creating the trust/institution, i.e., trust deed, with one copy thereof, where trust/institution is created under an instrument. Certified copy in lieu of original copy of trust deed can also be accepted by the Commissioner. 2. Documents evidencing the creation of trust/institution, with one copy thereof, where trust/institution is created otherwise than under an instrument. 3. Where the trust/institution has been in existence during any year(s) prior to financial year in which application for registration is made, the application should be accompanied by two copies of accounts of trust/institution relating to prior year or years, not being more than 3 years immediately preceding the year in which application is made.
41. Words "Chief Commissioner or" omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
42. Substituted for "whichever is later" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.
43. Substituted for the following by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991:  
**"Provided** that the Chief Commissioner or Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid;"

- (i) from the date of the creation of the trust or the establishment of the institution if the <sup>43a</sup>[\*\*\*] Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;
  - (ii) from the 1st day of the financial year in which the application is made, if the <sup>43a</sup>[\*\*\*] Commissioner is not so satisfied;]
- (b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds <sup>44</sup>[fifty] thousand rupees in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form <sup>45</sup>duly signed and verified by such accountant and setting forth such particulars as may be prescribed.]

<sup>46</sup>[**Procedure for registration.**

**12AA.** (1) The <sup>46a</sup>[\*\*\*] Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) of section 12A, shall—

- (a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and
- (b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—
  - (i) shall pass an order in writing registering the trust or institution;
  - (ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

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

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

<sup>46b</sup>[(1A) All applications, pending before the Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Commissioner and the Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.]

<sup>43a</sup>. Words “Chief Commissioner or” omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

<sup>44</sup>. Substituted for “twenty-five” by the Finance Act, 1994, w.e.f. 1-4-1995.

<sup>45</sup>. See rule 17B and Form No. 10B for audit report in case of trust/institution.

<sup>46</sup>. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

<sup>46a</sup>. Words “Chief Commissioner or” omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

<sup>46b</sup>. Inserted by the Finance Act, 1999, w.e.f. 1-6-1999.



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

<sup>47</sup>[Section 11 not to apply in certain cases.

<sup>48</sup>13. (1) Nothing contained in section 11 <sup>49</sup>[or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

- (a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;
- (b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;
- (bb) <sup>50</sup>[\* \* \*]
- (c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—
  - (i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or
  - (ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

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

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

47. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 13 was substituted by the Finance Act, 1970, w.e.f. 1-4-1971 and prior to its substitution, it was amended by the Finance Act, 1966, w.e.f. 1-4-1966 and the Finance Act, 1963, w.r.e.f. 1-4-1962.

48. See also Circular No. 335, dated 13-4-1982 and Circular No. 596, dated 15-3-1991. For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

49. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

50. Omitted by the Finance Act, 1983, w.e.f. 1-4-1984. Original clause (bb), as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977, read as under:

“(bb) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any business, any income derived from such business, unless the business is carried on in the course of the actual carrying out of a primary purpose of the trust or institution;”

or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution :

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

<sup>51</sup>[(d) <sup>52</sup>in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

- (i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or
- (ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or
- (iii) any shares in a company [not being a <sup>53</sup>Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act] are held by the trust or institution after the 30th day of November, 1983:

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

- (i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 <sup>54</sup>[\*\*\*];
- <sup>55</sup>[(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;]

51. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977. It was later on amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978 and by the Finance Act, 1982, w.e.f. 1-4-1982.

52. See also Circular No. 596, dated 15-3-1991. For details, see Taxmann's Master Guide to Income-tax Act.

53. For definition of "Government company" see footnote 18 on page 1.19 ante.

54. Words "and such assets were not purchased by the trust or institution or acquired by it by conversion of, or in exchange for, any other asset" omitted by the Finance Act, 1992, w.r.e.f. 1-4-1983.

55. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1983.

- (ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;
- <sup>56</sup>[(*iii*) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, <sup>57</sup>[1993], whichever is later;]
- (iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

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

<sup>58</sup>[*Explanation.*—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.]

(2) Without prejudice to the generality of the provisions of clause (c) <sup>59</sup>[and clause (d)] of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

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

56. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1983.

57. Substituted for “1992” by the Finance Act, 1992, w.e.f. 1-4-1992.

58. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

59. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

- (c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;
- (d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;
- (e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;
- (f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;
- <sup>60</sup>(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

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

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

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

- (a) the author of the trust or the founder of the institution;
- (b) any person who has made a substantial contribution to the trust or institution, <sup>61</sup>[that is to say, any person whose total contribution up to the end of the relevant previous year exceeds <sup>62</sup>[fifty] thousand rupees];
- (c) where such author, founder or person is a Hindu undivided family, a member of the family;
- <sup>63</sup>[(cc) any trustee of the trust or manager (by whatever name called) of the institution;]
- (d) any relative of any such author, founder, person, <sup>64</sup>[member, trustee or manager] as aforesaid;

60. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

61. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

62. Substituted for "twenty-five" by the Finance Act, 1994, w.e.f. 1-4-1995. Earlier, "twenty-five" was substituted for "five" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

63. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

64. Substituted for "or member", *ibid.*

(e) any concern in which any of the persons referred to in clauses (a), (b), (c) <sup>65</sup>[, (cc)] and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) <sup>66</sup>[but without prejudice to the provisions contained in clause (d) of that sub-section], in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 <sup>65</sup>[or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the <sup>67</sup>[funds] of the trust or the institution have been invested in a concern in which such person has a substantial interest.

<sup>68</sup>[(5) Notwithstanding anything contained in clause (d) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.]

(6) <sup>69</sup>[\* \* \*]

<sup>70</sup>[*Explanation 1.*—For the purposes of sections 11, 12, 12A and this section, “trust” includes any other legal obligation and for the purposes of this section “relative”, in relation to an individual, means—

- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) any lineal ascendant or descendant of the individual;
- (v) any lineal ascendant or descendant of the spouse of the individual;
- (vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);
- (vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

65. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

66. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

67. Substituted for “moneys” by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971.

68. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1983. Original sub-section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and omitted by the Finance Act, 1983, w.e.f. 1-4-1983.

69. Omitted by the Finance Act, 1983, w.e.f. 1-4-1983. Original sub-section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

70. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

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

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

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

<sup>71</sup>[**Special provision relating to incomes of political parties.**

**13A.** Any income of a political party which is chargeable under the head <sup>72</sup>[\*\*\*] “Income from house property” or “Income from other sources” or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party :

**Provided that—**

- (a) such political party keeps and maintains such books of account and other documents as would enable the <sup>73</sup>[Assessing] Officer to properly deduce its income therefrom;
- (b) in respect of each such voluntary contribution in excess of ten thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and
- (c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

*Explanation.*—For the purposes of this section, “political party” means an association or body of individual citizens of India registered with the Election Commission of India as a political party under paragraph 3 of the Election Symbols (Reservation and Allotment) Order, 1968, and includes a political party

71. Inserted by the Taxation Laws (Amendment) Act, 1978, w.e.f. 1-4-1979.

72. “Interest on securities,” omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

73. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

deemed to be registered with that Commission under the proviso to subparagraph (2) of that paragraph.]

**CHAPTER IV**  
**COMPUTATION OF TOTAL INCOME**  
***Heads of income***

**Heads of income.**

<sup>74</sup>**14.** Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income :—

A.—Salaries.

<sup>75</sup>[\*\*\*]

C.—Income from house property.

D.—Profits and gains of business or profession.

E.—Capital gains.

F.—Income from other sources.

*A.—Salaries*

**Salaries.**

<sup>76</sup>**15.** <sup>77</sup>The following income shall be chargeable to income-tax under the head “Salaries”—

- (a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;
- (b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;
- (c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

74. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

75. “B.—Interest on securities” omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

76. See also Circular No. 2(LVIII-32)-D of 1966, dated 21-2-1966, Circular No. 293, dated 10-2-1981, Letter [F. No. 45/118/66-ITJ], dated 21-8-1967, Circular No. 309, dated 3-7-1981, Letter No. 35/1/65-IT(B), dated 5-11-1965, Circular No. 312, dated 31-8-1981 and Letter F.No. 40/29/67-IT(A-I), dated 22-5-1967. For details, see Taxmann’s Master Guide to Income-tax Act.

77. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.