

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.

⁷⁴**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.

⁷⁵[***]

C.—Income from house property.

D.—Profits and gains of business or profession.

E.—Capital gains.

F.—Income from other sources.

A.—Salaries

Salaries.

⁷⁶**15.** ⁷⁷The 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.

⁷⁸[*Explanation 1*].—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

⁷⁹[*Explanation 2*.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as “salary” for the purposes of this section.]

Deductions from salaries.

⁸⁰**16.** The income chargeable under the head “Salaries” shall be computed after making the following deductions, namely :—

⁸¹[(i) *in the case of an assessee whose income from salary, before allowing a deduction under this clause,—*

(a) *does not exceed one lakh rupees, a deduction of a sum equal to thirty-three and one-third per cent of the salary or twenty-five thousand rupees, whichever is less;*

(b) *exceeds one lakh rupees but does not exceed five lakh rupees, a deduction of a sum of twenty thousand rupees.*

Explanation.—For the purposes of this clause, where salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;]

78. Existing *Explanation* renumbered as *Explanation 1* by the Finance Act, 1992, w.e.f. 1-4-1993.

79. Inserted, *ibid.* Earlier *Explanation 2* was inserted and omitted by the Direct Tax Laws (Amendment) Act, 1987/1989, w.e.f. 1-4-1989.

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

81. Substituted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**. Prior to its substitution, clause (i) as substituted for clauses (i) and (ia) by the Finance Act, 1997, w.e.f. 1-4-1998, read as under :

“(i) a deduction of a sum equal to thirty-three and one-third per cent of the salary or twenty thousand rupees, whichever is less.

Explanation.—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;”

Earlier clause (i) was amended by the Finance Act, 1974, w.e.f. 1-4-1975, Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, Finance Act, 1981, w.e.f. 1-4-1982, Finance Act, 1982, w.e.f. 1-4-1983, Finance Act, 1983, w.e.f. 1-4-1984, Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1975, Finance Act, 1985, w.e.f. 1-4-1986, Finance Act, 1986, w.e.f. 1-4-1987, Finance Act, 1988, w.e.f. 1-4-1989, Finance Act, 1989, w.e.f. 1-4-1990, Finance Act, 1992, w.e.f. 1-4-1993, Finance Act, 1993, w.e.f. 1-4-1994 and Finance (No. 2) Act, 1996, w.e.f. 1-4-1997 and clause (ia) was inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

(ii) ⁸²[a deduction] in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(a) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less; and

(b) in the case of any other assessee who is in receipt of such entertainment allowance and has been continuously in receipt of such entertainment allowance regularly from his present employer from a date before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the assessee from his present employer in any previous year ending before the 1st day of April, 1955, or a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand five hundred rupees, whichever is the least;

⁸³[(iii) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276⁸⁴ of the Constitution, leviable by or under any law.]

(iv) ⁸⁵[***]

(v) ⁸⁶[***]

82. Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981.

83. Inserted by the Finance Act, 1989, w.e.f. 1-4-1990. Earlier, it was omitted by the Finance Act, 1974, w.e.f. 1-4-1975.

84. Article 276(2) of the Constitution provides as under :

“276. (2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum.”

85. Omitted by the Finance Act, 1974, w.e.f. 1-4-1975. Earlier, clause (iv) was substituted/amended by the Finance Act, 1968, w.e.f. 1-4-1968, the Finance Act, 1969, w.e.f. 1-4-1970, the Finance Act, 1970, w.e.f. 1-4-1971 and the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

86. Omitted by the Finance Act, 1974, w.e.f. 1-4-1975.

“Salary”, “perquisite” and “profits in lieu of salary” defined.

⁸⁷17. ⁸⁸For the purposes of sections 15 and 16 and of this section,—

(1) “salary” includes—

- (i) wages;
- (ii) any annuity or pension;
- (iii) any gratuity;
- (iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;
- (v) any advance of salary;
- ⁸⁹(va) any payment received by an employee in respect of any period of leave not availed of by him;]
- (vi) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule; and
- (vii) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof;

⁹⁰(2) “perquisite” includes—

- ⁹¹(i) the value of rent-free accommodation provided to the assessee by his employer;

87. See also Circular No. 150, dated 19-11-1974, Circular No. 130, dated 16-3-1974, Circular No. 374, dated 14-12-1983, Instruction No. 1145/1146 [F. No. 200/9/78-IT(A-I)], dated 27-1-1978, Letter : F. No. 35/50/65-IT(B), dated 27-4-1966, Circular No. 5, dated 6-9-1950, Circular No. 311, dated 24-8-1981, Circular No. 41(LVIII-2), dated 27-10-1956, Letter : F. No. 35/7/65-IT(B), dated 12-2-1965, Circular No. 122, dated 19-10-1973, Instruction No. 1145 [F. No. 200/6/78-IT (A-I)], dated 27-1-1978, Para I of Instruction No. 133, dated 10-2-1969, Circular No. 603, dated 6-6-1991, Circular No. 662, dated 27-9-1993, Circular No. 710, dated 24-7-1995, Circular No. 708, dated 18-1-1995, as amended by Circular No. 727, dated 27-10-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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

90. See rule 3 for ‘Valuation of perquisites’. See also **Appendix Two** for an analysis of rule 3.

91. In terms of section 10A of the Salaries and Allowances of Ministers Act, 1952/Salaries and Allowances of Officers of Parliament Act, 1953 and section 9A of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, value of rent-free furnished residence (including maintenance thereof) provided to a minister/an officer of Parliament and a Leader of the Opposition is not to be included in the computation of his income chargeable to tax under the head “Salaries”.

- (ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;
- (iii) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases:—
 - (a) by a company to an employee who is a director thereof;
 - (b) by a company to an employee being a person who has a substantial interest in the company;
 - (c) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub-clause do not apply and whose income ⁹²[under the head “Salaries” (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds twenty-four thousand rupees.]

⁹³[*Explanation.*—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause;]

The following sub-clause (iiia) shall be inserted after sub-clause (iii) of clause (2) of section 17 by the Finance Act, 1999, w.e.f. 1-4-2000 :

- (iiia) *the value of any specified security allotted or transferred, directly or indirectly, by any person free of cost or at concessional rate, to an individual who is or has been in employment of that person :*
- Provided that in a case where allotment or transfer of specified securities is made in pursuance of an option exercised by an individual, the value of the specified securities shall be taxable in the previous year in which such option is exercised by such individual.**

Explanation.—For the purposes of this clause,—

- (a) “cost” means the amount actually paid for acquiring specified securities and where no money has been paid, the cost shall be taken as nil;
- (b) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and includes employees’ stock option and sweat equity shares;

92. Substituted for ‘under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds eighteen thousand rupees;’ by the Finance Act, 1985, w.e.f. 1-4-1986.

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

- (c) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called; and
- (d) “value” means the difference between the fair market value and the cost for acquiring specified securities;
- (iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee; and
- (v) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund ⁹⁴[or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)], to effect an assurance on the life of the assessee or to effect a contract for an annuity :
- ⁹⁵[**Provided** that nothing in this clause shall apply to,—
- (i) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;
- ⁹⁶[(ii) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—
- (a) in any hospital maintained by the Government or any local authority or any other hospital approved⁹⁷ by the Government for the purposes of medical treatment of its employees;

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

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

96. Substituted by the Finance Act, 1994, w.r.e.f. 1-4-1993. Prior to its substitution, clause (ii), as substituted by the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

“(ii) any sum paid by the employer—

(a) in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(b) directly to a hospital, approved by the Chief Commissioner having regard to the prescribed guidelines for the purposes of medical treatment of the prescribed diseases or ailments, on account of such treatment of the employee or any member of his family;”

97. For list of hospitals recognised under the Central Government Health Scheme *vide* Circular No. 603, dated 6-6-1991, *see* Taxmann’s Master Guide to Income-tax Act.

(b) in respect of the prescribed diseases⁹⁸ or ailments, in any hospital approved by the Chief Commissioner having regard to the prescribed guidelines⁹⁹ :

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

- (iii) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government for the purposes of clause (ib) of sub-section (1) of section 36;
- (iv) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government for the purposes of section 80D;
- (v) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family [other than the treatment referred to in clauses (i) and (ii)]; so, however, that such sum does not exceed ¹[fifteen] thousand rupees in the previous year;
- (vi) any expenditure incurred by the employer on—
- (1) medical treatment of the employee, or any member of the family of such employee, outside India;
 - (2) travel ²[and] stay abroad of the employee or any member of the family of such employee for medical treatment;
 - (3) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment, ³[subject to the condition that—
- (A) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

98. See rule 3A(2) for prescribed diseases.

99. See rule 3A(1) for conditions to be fulfilled by a hospital to obtain Chief Commissioner's approval.

1. Substituted for "ten" by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

2. Substituted for "or" by the Finance Act, 1993, w.e.f. 1-4-1993.

3. Substituted, *ibid.* Prior to its substitution, the portion beginning with "subject to the condition" and ending with "Reserve Bank of India in this behalf, prescribe", as amended by the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

"subject to the condition that the expenditure on travel referred to in sub-clauses (2) and (3) of this clause shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees and subject to such further conditions and limits in relation to such expenditure as the Board may, having regard to the guidelines, if any, issued by the Reserve Bank of India in this behalf, prescribe:"

- (B) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees;]
- (vii) any sum paid by the employer in respect of any expenditure actually incurred by the employee for any of the purposes specified in clause (vi) subject to the conditions specified in or under that clause.

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

- (i) “hospital” includes a dispensary or a clinic ⁴[or a nursing home];
- (ii) “family”, in relation to an individual, shall have the same meaning as in clause (5) of section 10; and
- (iii) “gross total income” shall have the same meaning as in clause (5) of section 80B;]

⁵[* * *]

⁶(3) “profits in lieu of salary” includes—

- (i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;
- (ii) any payment (other than any payment referred to in clause (10) ⁷[, clause (10A)] ⁸[, clause (10B)], clause (11), ⁹[clause (12) ¹⁰[, clause (13)] or clause (13A)] of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund ¹¹[* * *], to the extent to which it does not consist of contributions by the assessee or ¹²[interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

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

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

5. Sub-clause (vi) along with consequential amendments in sub-clauses (iv) and (v), omitted by the Finance Act, 1985, w.e.f. 1-4-1985. Original sub-clause was inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985. Amendment thus never came into operation.

6. See also Letter F. No. 35/26/64-IT(B), dated 25-5-1964. For details, see Taxmann’s Master Guide to Income-tax Act.

7. Inserted by the Finance (No. 2) Act, 1965, with retrospective effect from 1-4-1962.

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

9. Substituted for “or clause (12)” by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

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

11. Words “(not being an approved superannuation fund)” omitted, *ibid*.

12. Substituted for “interest on such contributions” by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

13[***]

13. Sub-heading “B.—Interest on securities” and sections 18 to 21 omitted by the Finance Act, 1988, w.e.f. 1-4-1989. Prior to their omission, sub-heading, section 18 (as amended by the Finance Act, 1965, w.e.f. 1-4-1965 and the Finance Act, 1988, w.e.f. 1-4-1988), section 19, section 20 (as amended by the Finance Act, 1979, w.e.f. 1-4-1980) and section 21, read as under:

‘B.—Interest on securities

18. *Interest on securities.*—(1) The following amounts due to an assessee in the previous year shall be chargeable to income-tax under the head “Interest on securities”,—

- (i) interest on any security of the Central or State Government;
- (ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

(2) Nothing contained in sub-section (1) shall be construed as precluding an assessee from being charged to income-tax in respect of any interest on securities received by him in a previous year if such interest had not been charged to income-tax for any earlier previous year.

19. *Deductions from interest on securities.*—Subject to the provisions of section 21, the income chargeable under the head “Interest on securities” shall be computed after making the following deductions—

- (i) any reasonable sum expended by the assessee for the purpose of realising such interest;
- (ii) any interest payable on money borrowed for the purpose of investment in the securities by the assessee.

20. *Deductions from interest on securities in the case of a banking company.*—(1) In the case of a banking company—

- (i) the sum to be regarded as a sum reasonably expended for the purpose referred to in clause (i) of section 19 shall be an amount bearing to the aggregate of its expenses as are admissible under the provisions of sections 30, 31, 36 and 37 [other than clauses (iii), (vi), (vii) and (viii) of sub-section (1) of section 36] the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts of the company from all sources which are included in the profit and loss account of the company;
- (ii) the amount to be regarded as interest payable on moneys borrowed for the purpose referred to in clause (ii) of section 19 shall be an amount which bears to the amount of interest payable on all moneys borrowed by the company the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts from all sources which are included in the profit and loss account of the company.

(2) The expenses deducted under clauses (i) and (ii) of sub-section (1) shall not again form part of the deductions admissible under sections 30 to 37 for the purposes of computing the income of the company under the head “Profits and gains of business or profession”.

Explanation.—For the purposes of this section, “moneys borrowed” includes moneys received by way of deposits.

21. *Amounts not deductible from interest on securities.*—Notwithstanding anything contained in sections 19 and 20, any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B, and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head “Interest on securities”.

C.—Income from house property

Income from house property.

¹⁴**22.** ¹⁵The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head “Income from house property”.

Annual value how determined.

¹⁵**23.** (1) ¹⁶[For the purposes of section 22, the annual value of any property shall be deemed to be—

- (a) the sum for which the property might reasonably be expected to let from year to year; or
- (b) where the property is let and the annual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable :]

¹⁷[**Provided** that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him :]

¹⁸[**Provided further** that the annual value as determined under this sub-section shall,—

- (a) in the case of a building comprising one or more residential units, the erection of which is begun after the 1st day of April, 1961, and completed before the 1st day of April, 1970, for a period of three years from the date of completion of the building, be reduced by a sum equal to the aggregate of—
 - (i) in respect of any residential unit whose annual value as so determined does not exceed six hundred rupees, the amount of such annual value;
 - (ii) in respect of any residential unit whose annual value as so determined exceeds six hundred rupees, an amount of six hundred rupees;

14. See also Circular No. 9, dated 25-3-1969 and Circular No. 2(XLVIII-2), dated 13-6-1955. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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

17. Substituted for the following proviso, which was earlier substituted for the first proviso and *Explanation* by the Finance Act, 1968, w.e.f. 1-4-1969, by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985 :

“**Provided** that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted in determining the annual value of the property :”

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

(b) in the case of a building comprising one or more residential units, the erection of which is begun after the 1st day of April, 1961, and completed after the 31st day of March, 1970,¹⁹[but before the 1st day of April, 1978,] for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(i) in respect of any residential unit whose annual value as so determined does not exceed one thousand two hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds one thousand two hundred rupees, an amount of one thousand two hundred rupees;

²⁰[(c) in the case of a building comprising one or more residential units, the erection of which is ²¹[completed after the 31st day of March, 1978, but before the 1st day of April, 1982], for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(i) in respect of any residential unit whose annual value as so determined does not exceed two thousand four hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds two thousand four hundred rupees, an amount of two thousand four hundred rupees;]

²²[(d) in the case of a building comprising one or more residential units, the erection of which is completed after the 31st day of March, 1982 ²³[but before the 1st day of April, 1992], for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(i) in respect of any residential unit whose annual value as so determined does not exceed three thousand six hundred rupees, the amount of such annual value ;

(ii) in respect of any residential unit whose annual value as so determined exceeds three thousand six hundred rupees, an amount of three thousand six hundred rupees.

²⁴[***]]

19. Inserted by the Finance Act, 1978, w.e.f. 1-4-1979.

20. Inserted, *ibid*.

21. Substituted for “completed after the 31st day of March, 1978” by the Finance Act, 1982, w.e.f. 1-4-1983.

22. Substituted for “so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) is in no case a loss” by the Finance Act, 1982, w.e.f. 1-4-1983.

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

24. “so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) or clause (d) is in no case a loss” omitted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1984.

²⁵[²⁶*Explanation 1*].—For the purposes of this sub-section, “annual rent” means—

- (a) in a case where the property is let throughout the previous year, the actual rent received or receivable by the owner in respect of such year; and
- (b) in any other case, the amount which bears the same proportion to the amount of the actual rent received or receivable by the owner for the period for which the property is let, as the period of twelve months bears to such period.]

²⁷*Explanation 2*.—For the removal of doubts, it is hereby declared that where a deduction in respect of any taxes referred to in the first proviso to this sub-section is allowed in determining the annual value of the property in respect of any previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any earlier assessment year), no deduction shall be allowed under the first proviso in determining the annual value of the property in respect of the previous year in which such taxes are actually paid by the owner.]

²⁸(2) Where the property consists of—

- (a) a house or part of a house in the occupation of the owner for the purposes of his own residence,—
 - (i) which is not actually let during any part of the previous year and no other benefit therefrom is derived by the owner, the annual value of such house or part of the house shall be taken to be *nil*;

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

26. *Explanation* renumbered as *Explanation 1* by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

27. Inserted, *ibid*.

28. Substituted for the following sub-section (2) by the Finance Act, 1986, w.e.f. 1-4-1987 :
“(2) Where the property consists of—

- (i) a house in the occupation of the owner for the purposes of his own residence, the annual value of such house shall first be determined in the same manner as if the property had been let and further be reduced by one-half of the amount so determined or [three thousand and six hundred] rupees, whichever is less ;
- (ii) more than one house in the occupation of the owner for the purposes of his own residence, the provisions of clause (i) shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf :

Provided that for the purposes of clauses (i) and (ii), where the sum so arrived at exceeds ten per cent of the total income of the owner (the total income for this purpose being computed without including therein any income from such property and before making any deduction under Chapter VIA), the excess shall be disregarded.

Explanation.—Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.”

Earlier, sub-section (2) was first amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and later substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and also by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Words in square brackets in clause (i) were substituted for “one thousand and eight hundred” by the Finance Act, 1982, w.e.f. 1-4-1983.

(ii) which is let during any part or parts of the previous year, that part of the annual value (annual value being determined in the same manner as if the property had been let) which is proportionate to the period during which the property is in the occupation of the owner for the purposes of his own residence, or, as the case may be, where such property is let out in parts, that portion of the annual value appropriate to any part which was occupied by the owner for his own residence, which is proportionate to the period during which such part is wholly occupied by him for his own residence shall be deducted in determining the annual value.

Explanation.—The deduction under this sub-clause shall be made irrespective of whether the period during which the property or, as the case may be, part of the property was used for the residence of the owner precedes or follows the period during which it is let;

- (b) more than one house in the occupation of the owner for the purposes of his own residence, the provisions of clause (a) shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf;
- (c) more than one house and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (b), shall be determined under sub-section (1) as if such house or houses had been let.

Explanation.—Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.]

²⁹[***]

³⁰[(3) Where the property referred to in sub-section (2) consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact

29. Sub-section (2A) omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Prior to its omission, sub-section (2A), as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under :

“(2A) For the removal of doubt, it is hereby declared that, where the property consists of more than one house and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of the houses, other than that the annual value of which is required to be determined under clause (ii) of sub-section (2), shall be determined under sub-section (1) as if such houses had been let.”

30. Substituted for the following sub-section (3) by the Finance Act, 1986, w.e.f. 1-4-1987 :

“(3) Where the property referred to in sub-section (2) consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house shall—

- (a) if the house was not actually occupied by the owner during the whole of the previous year, be taken to be *nil*, or
- (b) if the house was actually occupied by the owner for a fraction of the previous year, be taken to be that fraction of the annual value determined under sub-section (2) :

(Contd. on p. 1.127)

that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house shall be taken to be *nil* :

Provided that the following conditions are fulfilled, namely :—

- (i) such house is not actually let, and
- (ii) no other benefit therefrom is derived by the owner.]

Deductions from income from house property.

³¹24. (1) Income chargeable under the head “Income from house property” shall, subject to the provisions of sub-section (2), be computed after making the following deductions, namely:—

- ³²[(i) in respect of repairs of, and collection of rent from, the property, a sum equal to ³³[*one-fourth*] of the annual value;]
- (ii) the amount of any premium paid to insure the property against risk of damage or destruction ;
- (iii) ³⁴[***]
- (iv) where the property is subject to an annual charge ³⁵[(not being a charge created by the assessee voluntarily or a capital charge)], the amount of such charge ;
- (v) where the property is subject to a ground rent, the amount of such ground rent ;
- (vi) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

(Contd. from p. 1.126)

Provided that the following conditions are in either case fulfilled :—

- (i) the house is not actually let, and
- (ii) no other benefit therefrom is derived by the owner.”

31. See also Circular No. 363, dated 24-6-1983 and Circular No. 28, dated 20-8-1969. For details, see Taxmann’s Master Guide to Income-tax Act.

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

32. Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, clause (i) read as under :

“(i) in respect of repairs,—

- (a) where the property is in the occupation of the owner, or where the property is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of the annual value ;
- (b) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs,—
 - (i) the excess of the annual value over the amount of rent payable for a year by the tenant ; or
 - (ii) a sum equal to one-sixth of the annual value, whichever is less ;”

33. Substituted for “one-fifth” by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

34. Omitted by the Finance Act, 1968, w.e.f. 1-4-1969.

35. Substituted for “not being a capital charge”, *ibid*.

³⁶[*Explanation.*—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as a deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years;]

(vii) any sums paid on account of land revenue ³⁷[or any other tax levied by the State Government] in respect of the property;

(viii) ³⁸[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(ix) where the property is let and was vacant during a part of the year, that part of the annual value which is proportionate to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of the annual value appropriate to any vacant part, which is proportionate to the period during which such part is wholly unoccupied ³⁹[***].

⁴⁰[*Explanation.*—The deduction under this clause shall be made irrespective of whether the period during which the property or, as the case may be, part of the property was vacant precedes or follows the period during which it is let;]

⁴¹(x) subject to such rules as may be made in this behalf, the amount in respect of rent from property let to a tenant which the assessee cannot realise.

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

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

38. Prior to omission clause (viii) read as under :

“(viii) any sums spent to collect the rent from the property, not exceeding six per cent of the annual value of the property ;”

39. “; and” omitted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1977.

40. Inserted, *ibid.*

41. Rule 4 prescribes following conditions for deductibility of unrealised rent : (1) The tenancy must be *bona fide*. (2) The defaulting tenant should have vacated, or steps should have been taken by the assessee to compel him to vacate the property. (3) The defaulting tenant should not be in occupation of any other property of the assessee. (4) The assessee must either have taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent, or satisfy the Assessing Officer that legal proceedings would be useless. (5) The annual value of the property to which the unpaid rent relates must have been included in the assessed income of the previous year for which that rent was due, and tax should have been duly paid on such assessed income. (6) The deduction allowed should in no case exceed the income under the head ‘Income from house property’ included in the total income, as computed without making this deduction. (7) If, after deduction has been allowed in one year, the assessee realises the unpaid rent in a subsequent year, the amount so realised will be brought to tax under the head ‘Income from house property’ in the year of receipt, irrespective of whether the assessee continues to be the owner of that property in that year or not.

⁴²[(2) No deduction shall be allowed under sub-section (1) in respect of property of the nature referred to in sub-clause (i) of clause (a) of sub-section (2), or sub-section (3) of section 23 :

Provided that nothing in this sub-section shall apply to the allowance of a deduction under clause (vi) of sub-section (1) of an amount not exceeding ⁴³[thirty] thousand rupees in respect of the property of the nature referred to in sub-clause (i) of clause (a) of sub-section (2) of section 23 ⁴⁴[or sub-section (3) of section 23].

The following second proviso shall be inserted after the first proviso to sub-section (2) of section 24 by the Finance Act, 1999, w.e.f. 1-4-2000 :

Provided further that where the property is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2001, the provisions of the first proviso shall have effect as if for the words “thirty thousand rupees”, the words “seventy-five thousand rupees” had been substituted.

(3) The total amount deductible under sub-section (1) in respect of property of the nature referred to in sub-clause (ii) of clause (a) of sub-section (2) of section 23 shall not exceed the annual value of the property as determined under that section.]

Amounts not deductible from income from house property.

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

⁴⁵[**Special provision for cases where unrealised rent allowed as deduction is realised subsequently.**

25A. Where a deduction has been made under clause (x) of sub-section (1) of section 24 in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head “Income from house property” and accordingly charged to income-tax (without making any deduction under section 23 or section 24) as the income of that

42. Substituted for the following sub-section (2) by the Finance Act, 1986, w.e.f. 1-4-1987 :
“(2) The total amount deductible under sub-section (1) in respect of property of the nature referred to in sub-section (3) of section 23 shall not exceed the annual value of the property as determined under section 23.”

43. Substituted for “fifteen” by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Earlier “fifteen” substituted for “ten” by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997 and “ten” was substituted for “five” by the Finance Act, 1994, w.e.f. 1-4-1995.

44. Inserted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1995.

45. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

previous year, whether the assessee is the owner of that property in that year or not.]

Property owned by co-owners.

⁴⁶**26.** ⁴⁷Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.

⁴⁸[*Explanation.*—For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.]

“Owner of house property”, “annual charge”, etc., defined.

⁴⁹**27.** For the purposes of sections 22 to 26—

- (i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;
- (ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate ;
- ⁵⁰[(iii) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof ;
- (iiia) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in ⁵¹section 53A of the Transfer of Property Act, 1882 (4 of 1882), shall be deemed to be the owner of that building or part thereof ;
- (iiib) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (f) of section 269UA, shall be deemed to be the owner of that building or part thereof;]

46. See also Letter F. No. 45/230/63-ITJ, dated 22-2-1965. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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

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

50. Substituted for the following clause (iii) by the Finance Act, 1987, w.e.f. 1-4-1988 :

“(iii) a member of a co-operative society to whom a building or part thereof is allotted or leased under a house building scheme of the society shall be deemed to be the owner of that building or part thereof;”

51. For text of section 53A of the Transfer of Property Act, 1882, see **Appendix One.**

- (iv) “annual charge” means a charge to secure an annual liability, but does not include any tax in respect of property or income from property imposed by a local authority, or the Central or a State Government ;
- (v) “capital charge” means a charge to secure the discharge of a liability of a capital nature ;
- (vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

D.—Profits and gains of business or profession

Profits and gains of business or profession.

⁵²28. ⁵³The following income shall be chargeable to income-tax under the head “Profits and gains of business or profession”,—

- (i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year ;
- (ii) any compensation or other payment due to or received by,—
 - (a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;
 - (b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto ;
 - (c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto ;
 - ⁵⁴[(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business ;]
- (iii) income derived by a trade, professional or similar association from specific services performed for its members ;

52. See also Press Note, dated 9-10-1952, issued by the Ministry of Finance, Instruction No. 971 [F.No. 228/12/76-IT (A-II)], dated 8-7-1976, Circular No. 1 (XLVII-12), dated 16-1-1962, Circular No. 35-D(XLVII-20), dated 24-11-1965, Circular No. 25, SIA Series, dated 20-10-1975, Circular No. 599, dated 24-4-1991, Circular No. 665, dated 5-10-1993, Circular No. 742, dated 2-5-1996 (as amended by Circular No. 765, dated 15-4-1998) and Letter dated 12-3-1996. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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