

⁴³[**Amount borrowed or repaid on hundi.**]

⁴⁴**69D.** Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be :

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.]

Set off, or carry forward and set off

⁴⁵[**Set off of loss from one source against income from another source under the same head of income.**]

⁴⁶**70.** ⁴⁷[* * *] Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income ⁴⁸[* * *] is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

⁴⁹[* * *]

43. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

44. See also Circular No. 221, dated 6-6-1977 and Circular No. 208, dated 15-11-1976. For details, see Taxmann's Master Guide to Income-tax Act.

45. Substituted by the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962.

46. See also Circular No. 14-D (XXV-27), dated 2-8-1967, Circular No. 26 (LXXVI-3), dated 7-7-1955, Circular No. 104, dated 19-2-1973 and Circular No. 587, dated 11-12-1990. For details, see Taxmann's Master Guide to Income-tax Act.

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

47. "(1)" omitted by the Finance Act, 1987, w.e.f. 1-4-1988.

48. "other than capital gains" omitted by the Finance Act, 1987, w.e.f. 1-4-1988.

49. Omitted, *ibid.* Prior to its omission sub-section (2) stood as under :

"(2) (i) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(ii) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset other than a short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset."

⁵⁰[**Set off of loss from one head against income from another.**

⁵¹71. (1) Where in respect of any assessment year the net result of the computation under any head of income, other than “Capital gains”, is a loss and the assessee has no income under the head “Capital gains”, he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(2) Where in respect of any assessment year, the net result of the computation under any head of income, other than “Capital gains”, is a loss and the assessee has income assessable under the head “Capital gains”, such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head “Capital gains” (whether relating to short-term capital assets or any other capital assets).

(3) Where in respect of any assessment year, the net result of the computation under the head “Capital gains” is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.]

⁵²[(4) Where the net result of the computation under the head “Income from house property” is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections (1) and (2) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.]

50. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to substitution, section 71, as substituted by the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962 and Finance Act, 1987, w.e.f. 1-4-1988 and as amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968, read as under :

“71. *Set off of loss from one head against income from another.* —Where in respect of any assessment year, the net result of the computation under any head of income is a loss, the assessee shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.”

51. See also Circular No. 14-D (XXV-27), dated 2-8-1967, Circular No. 26 (LXXVI-3), dated 7-7-1955, Circular No. 104, dated 19-2-1973 and Circular No. 587, dated 11-12-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

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

52. Substituted by the Finance Act, 1994, w.e.f. 1-4-1995. Prior to substitution sub-section (4), as inserted by the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

‘(4) Notwithstanding anything contained in sub-sections (1) and (2), where in respect of any assessment year the net result of the computation, in relation to any property [other than the property referred to in sub-clause (i) of clause (a) of sub-section (2) of section 23], under the head “Income from house property” is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.’

⁵³[**Transitional provisions for set off of loss under the head “Income from house property”.**

71A. Where in respect of the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994, the net result of the computation under the head “Income from house property” is a loss, such loss in so far as it relates to interest on borrowed capital referred to in clause (vi) of sub-section (1) of section 24 and to the extent it has not been set off shall be carried forward and set off in the assessment year commencing on the 1st day of April, 1995, and the balance, if any, in the assessment year commencing on the 1st day of April, 1996, against the income under any head.]

⁵⁴[**Carry forward and set off of loss from house property.**

71B. *Where for any assessment year the net result of computation under the head “Income from house property” is a loss to the assessee and such loss cannot be or is not wholly set off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—*

(i) *be set off against the income from house property assessable for that assessment year; and*

(ii) *the loss, if any, which has not been set off wholly, the amount of loss not so set off,*

shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.]

Carry forward and set off of business losses.

⁵⁵**72.** ⁵⁶[(1) Where for any assessment year, the net result of the computation under the head “Profits and gains of business or profession” is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been

53. Substituted by the Finance Act, 1994, w.e.f. 1-4-1995. Prior to substitution section 71A, as inserted by the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

‘71A. *Carry forward of losses under the head “Income from house property”.*—Where in respect of any assessment year, the net result of the computation under the head “Income from house property” is a loss, the loss in so far as it relates to interest on borrowed capital referred to in clause (vi) of sub-section (1) of section 24 shall be carried forward by the assessee to the following assessment year or years and set off against the income under that head.’

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

55. See also Circular No. 14-D (XXV-27), dated 2-8-1967, Circular No. 26 (LXXVI-3), dated 7-7-1955, Circular No. 104, dated 19-2-1973 and Circular No. 587, dated 11-12-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

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

56. Substituted by the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962.

so set off or, ⁵⁷[* * *] where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year :

^{57a}**[Provided that the business or profession for which the loss was originally computed continued to be carried on by him in the previous year relevant for that assessment year ; and]**

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on :]

⁵⁸**[Provided that where the whole or any part of such loss is sustained in any such business as is referred to in section 33B which is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—**

(a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year ; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding.]

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section.

(3) No loss ⁵⁹[(other than the loss referred to in the proviso to sub-section (1) of this section)] shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

57. 'where the assessee has income only under the head "Capital gains" relating to capital assets other than short-term capital assets and has exercised the option under sub-section (2) of that section or' omitted by the Finance Act, 1987, w.e.f. 1-4-1988. In the omitted portion, expression in italics was inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

57a. Proviso to clause (i) shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000**.

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

59. Inserted, *ibid*.

⁶⁰[Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in certain cases of amalgamation.

⁶¹72A.(1) Where there has been an amalgamation of a company owning an industrial undertaking or a ship with another company and the Central Government, on the recommendation of the specified authority, is satisfied that the following conditions are fulfilled, namely :—

- (a) the amalgamating company was not, immediately before such amalgamation, financially viable by reason of its liabilities, losses and other relevant factors ;
- (b) the amalgamation was in the public interest ; and
- (c) such other conditions as the Central Government may, by notification in the Official Gazette, specify, to ensure that the benefit under this section is restricted to amalgamations which would facilitate the rehabilitation or revival of the business of the amalgamating company,

then, the Central Government may make a declaration to that effect, and, thereupon, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and the other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the following conditions are fulfilled, namely :—

- (i) during the previous year relevant to the assessment year for which such set off or allowance is claimed, the business of the amalgamating company is carried on by the amalgamated company without any modification or reorganisation or with such modification or reorganisation as may be approved by the Central Government to enable the amalgamated company to carry on such business more economically or more efficiently ;
- (ii) the amalgamated company furnishes, along with its return of income for the said assessment year, a certificate from the specified authority to the effect that adequate steps have been taken by that company for the rehabilitation or revival of the business of the amalgamating company.

⁶²[(3) Where a company owning an industrial undertaking or a ship proposes to amalgamate with any other company and such other company submits the

60. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

61. See also Circular No. 350, dated 29-9-1982. For details, see Taxmann's Master Guide to Income-tax Act.

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

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

proposed scheme of amalgamation to the specified authority and that authority is satisfied, after examining the scheme and taking into account all relevant facts, that the conditions referred to in sub-section (1) would be fulfilled if such amalgamation is effected in accordance with such scheme or, as the case may be, in accordance with such scheme as modified in such manner as that authority may specify, it shall intimate such other company that, after the amalgamation is effected in accordance with such scheme or, as the case may be, such scheme as so modified, it would make (unless there is any material change in the relevant facts) a recommendation to the Central Government under sub-section (1).]

⁶³[*(4) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provisions of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :—*

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(5) For the purposes of sub-section (4),—

- (a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern, as the case may be, under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business had not taken place;
- (b) “unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern, as the case may be, under the provisions of this Act, if the reorganisation of business had not taken place.]

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

Explanation.—In this section,—

- (a) “accumulated loss” means so much of the loss of the amalgamating company under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which the amalgamating company would have been entitled to carry forward and set off under the provisions of section 72 if the amalgamation had not been effected ;
- (b) “specified authority” means such authority as the Central Government may, by notification⁶⁴ in the Official Gazette, specify for the purposes of this section ;
- (c) “unabsorbed depreciation” means so much of the allowance for depreciation of the amalgamating company which remains to be allowed and which would have been allowed to the amalgamating company under the provisions of this Act if the amalgamation had not been effected.]

The following section 72A shall be substituted for the existing section 72A by the Finance Act, 1999, w.e.f. 1-4-2000 :

Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

72A. (1) *Where there has been an amalgamation of a company owning an industrial undertaking or a ship with another company, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.*

(2) *Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the amalgamated company—*

- (i) *holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths in the value of assets of the amalgamating company acquired in a scheme of amalgamation;*
- (ii) *continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;*
- (iii) *fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.*

(3) *In a case where any of the conditions laid down in sub-section (2) are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the*

64. Specified authority is : Board for Industrial & Financial Reconstruction (BIFR), established under Sick Industrial Companies (Special Provisions) Act, 1985.

income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

(4) Notwithstanding anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall—

- (a) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;*
- (b) where such loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as the case may be.*

(5) The Central Government may, for the purposes of this Act, by notification in the Official Gazette, specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

(6) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the purpose of previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :

Provided *that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.*

(7) For the purposes of this section,—

- (a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or amalgamation or demerger had not taken place;*

- (b) *“unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or amalgamation or demerger had not taken place.*

Losses in speculation business.

⁶⁵73. (1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

- (i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year ; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

(4) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

⁶⁶[*Explanation.*—Where any part of the business of a company ⁶⁷[other than a company whose gross total income consists mainly of income which is chargeable under the heads “Interest on securities”, “Income from house property”, “Capital gains” and “Income from other sources”], or a company the principal business of which is the business of banking or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.]

65. See also Circular No. 13(102)-IT/53, dated 8-9-1954 and Circular No. 23(XXXIX-4)-D, dated 12-9-1960. For details, see Taxmann’s Master Guide to Income-tax Act.

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

66. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

67. Substituted for “other than an investment company, as defined in clause (ii) of section 109” by the Finance Act, 1987, w.e.f. 1-4-1988.

⁶⁸[Losses under the head “Capital gains”].

74. (1) Where in respect of any assessment year, the net result of the computation under the head “Capital gains” is a loss to the assessee ⁶⁹[* * *], the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

- (a) it shall be set off against income, if any, under the head “Capital gains” assessable for that assessment year ; and
- (b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year, and so on.

(2) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

(3) Any loss computed under the head “Capital gains” in respect of the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year which is carried forward in accordance with the provisions of this section as it stood before the 1st day of April, 1988, shall be dealt with in the assessment year commencing on the 1st day of April, 1988, or any subsequent assessment year as follows :—

- (a) in so far as such loss relates to short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-sections (1) and (2) ;
- (b) in so far as such loss relates to long-term capital assets, it shall be reduced by the deductions specified in sub-section (2) of section 48 and the reduced amount shall be carried forward and set off in accordance with the provisions of sub-section (1) but such carry forward shall not be allowed beyond the fourth assessment year immediately succeeding the assessment year for which the loss was first computed.]

⁷⁰[Losses from certain specified sources falling under the head “Income from other sources”].

74A. (1) ⁷¹[* * *]

(2) ⁷²[* * *]

68. Substituted by the Finance Act, 1987, w.e.f. 1-4-1988. Earlier, section 74 was substituted by the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962 and amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968 and the Finance Act, 1986, w.e.f. 1-4-1987.

69. Words “and such loss cannot be or is not wholly set off against income under any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off, or where he has no income under any other head” omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

70. Inserted by the Finance Act, 1972, w.e.f. 1-4-1972. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.

71. Omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Earlier, it was amended by the Finance Act, 1974, w.e.f. 1-4-1975.

72. Omitted by the Finance Act, 1986, w.e.f. 1-4-1987.

⁷³[(3) ⁷⁴[* * *] In the case of an assessee, being the owner of horses maintained by him for running in horse races (such horses being hereafter in this sub-section referred to as race horses), ⁷⁵[the amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any assessment year shall not be set off against income, if any, from any source other than the activity of owning and maintaining race horses in that year and] shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

- (a) it shall be set off against the income, if any, ⁷⁶[from the activity of owning and maintaining race horses] assessable for that assessment year :

Provided that the activity of owning and maintaining race horses is carried on by him in the previous year relevant for that assessment year ; and

- (b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on; so, however, that no portion of the loss shall be carried forward for more than four assessment years immediately succeeding the assessment year for which the loss was first computed.

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

- (a) “amount of loss incurred by the assessee in the activity of owning and maintaining race horses” means—

(i) in a case where the assessee has no income by way of stake money, the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses ;

(ii) in a case where the assessee has income by way of stake money, the amount by which such income falls short of the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by the assessee wholly and exclusively for the purposes of maintaining race horses ;

- (b) “horse race” means a horse race upon which wagering or betting may be lawfully made ;

- (c) “income by way of stake money” means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning or being placed second or in any lower position in horse races.]

73. Inserted by the Finance Act, 1974, w.e.f. 1-4-1975.

74. “Where for any assessment year” omitted by the Finance Act, 1986, w.e.f. 1-4-1987.

75. Substituted for “the net result of the computation in respect of the source, specified in clause (c) of sub-section (2) is a loss, then, so much of the amount of such loss as does not exceed the amount of loss incurred by the assessee in the activity of owning and maintaining race horses”, *ibid.*

76. Substituted for “from the source specified in clause (c) of sub-section (2)” by the Finance Act, 1986, w.e.f. 1-4-1987.

⁷⁷[**Losses of firms.** ⁷⁸

75. Where the assessee is a firm, any loss in relation to the assessment year commencing on or before the 1st day of April, 1992, which could not be set off against any other income of the firm and which had been apportioned to a partner of the firm but could not be set off by such partner prior to the assessment year commencing on the 1st day of April, 1993, then, such loss shall be allowed to be set off against the income of the firm subject to the condition that the partner continues in the said firm and to be carried forward for set off under sections 70, 71, 72, 73, 74 and 74A.]

Carry forward and set off of losses in case of change in constitution of firm or on succession.

⁷⁹**78.** ⁸⁰[(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.]

⁷⁷. Substituted for sections 75, 76 and 77 by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, sections 75, 76 and 77, as amended by the Finance Act, 1972, w.e.f. 1-4-1972, the Finance Act, 1974, w.e.f. 1-4-1975, the Finance Act, 1987, w.e.f. 1-4-1988, the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, respectively, read as under :

“75. *Losses of registered firms.*—(1) Where the assessee is a registered firm, any loss which cannot be set off against any other income of the firm shall be apportioned between the partners of the firm, and they alone shall be entitled to have the amount of the loss set off and carried forward for set off under sections 70, 71, 72, 73, 74 and 74A.

(2) Nothing contained in sub-section (1) of section 72, sub-section (2) of section 73, sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A shall entitle any assessee, being a registered firm, to have its loss carried forward and set off under the provisions of the aforesaid sections.

76. *Losses of unregistered firms assessed as registered firms.*—In the case of an unregistered firm assessed under the provisions of clause (b) of section 183 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm.

77. *Losses of unregistered firms or their partners.*—(1) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183, any loss of the firm shall be set off or carried forward and set off only against the income of the firm.

(2) Where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183 and his share in the income of the firm is a loss, then, whether the firm has already been assessed or not—

(a) such loss shall not be set off under the provisions of section 70, section 71, sub-section (1) of section 73 or section 74A ;

(b) nothing contained in sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A shall entitle the assessee to have such loss carried forward and set off against his own income.”

78. See Circular No. 703, dated 18-4-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

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

80. Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, sub-section (1), as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

(Contd. on p. 1.332)

(2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

Carry forward and set off of losses in the case of certain companies.

79. Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless—

- (a) on the last day of the previous year the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred⁸¹[* * *] :

⁸²(b) [*Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.*]

⁸³[**Provided** that nothing contained in this section shall apply to a case where a change in the said voting power takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift :]

The following second proviso shall be inserted after the existing proviso of section 79 by the Finance Act, 1999, w.e.f. 1-4-2000 :

Provided further that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.

(Contd. from p. 1.331)

“(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 67.”

81. “or” omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

82. Prior to its omission, it read as under :

“(b) the *Assessing Officer is satisfied that the change in the shareholding was not effected with a view to avoiding or reducing any liability to tax.”

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

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

Submission of return for losses.

⁸⁴**80.** Notwithstanding anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed ⁸⁵[in accordance with the provisions of sub-section (3) of section 139], shall be carried forward and set off under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) ⁸⁶[or sub-section (3)] of section 74 ⁸⁷[or sub-section (3) of section 74A].

⁸⁸[CHAPTER VI-A**DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME***A.—General***Deductions to be made in computing total income.**

80A.(1) In computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of this Chapter, the deductions specified in sections 80C to ⁸⁹[80U].

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee.

⁹⁰[(3) Where, in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80GGA or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA ^{90a}[or section 80-IB] or section 80J* or section 80JJ, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association of persons or body of individuals.]

84. See also Circular No. 683, dated 8-6-1994. For details and relevant case laws, see Taxmann's Master Guide to Income-tax Act.

85. Substituted for "within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier, the said expression was substituted for "under section 139" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

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

87. Inserted by the Finance Act, 1974, w.e.f. 1-4-1975.

88. Chapter VI-A, consisting of sections 80A, 80B, 80C, 80D, 80E, 80F, 80G, 80H, 80-I, 80J, 80K, 80L, 80M, 80N, 80-O, 80-P, 80Q, 80R, 80S and 80T, was substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. The original Chapter, consisting of only sections 80A to 80D, was inserted by the Finance Act, 1965, w.e.f. 1-4-1965. In the original Chapter, section 80A was amended by the Finance Act, 1966, w.e.f. 1-4-1966 and new section 80E was inserted by the Finance (No. 2) Act, 1966, w.e.f. 1-4-1966.

89. Substituted for "80VV" by the Finance Act, 1985, w.e.f. 1-4-1986. Earlier, "80VV" was substituted for "80U" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and "80U" was substituted for "80T" by the Finance Act, 1968, w.e.f. 1-4-1969.

90. Substituted for sub-section (3) by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, sub-section (3), as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance Act, 1972, w.e.f. 1-4-1972, the Direct Taxes (Amendment) Act, 1974, w.e.f. 1-4-1974, the Finance Act, 1974,

(Contd. on p. 1.334)