Explanation.—For the purposes of this clause, the expressions "National Committee" and "eligible project or scheme" shall have the meanings respectively assigned to them in the *Explanation* to section 35AC;]

[8][(*c*) any sum paid by the assessee in the previous year to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources [9][or of afforestation], to be used for carrying out any programme of conservation of natural resources [9][or of afforestation] approved for the purposes of section 35CCB:

Provided that the association or institution is for the time being approved for the purposes of sub-section (2) of section 35CCB;]

[10][(*cc*) any sum paid by the assessee in the previous year to such fund for afforestation as is notified by the Central Government under clause (*b*) of sub-section (1) of section 35CCB;]

[11][(*d*) any sum paid by the assessee in the previous year to a rural development fund set up and notified by the Central Government for the purposes of clause (*c*) of sub-section (1) of section 35CCA;]

[12][(*e*) any sum paid by the assessee in the previous year to the National Urban Poverty Eradication Fund set up and notified by the Central Government for the purposes of clause (*d*) of sub-section (1) of section 35CCA.]

(3) Notwithstanding anything contained in sub-section (1), no deduction under this section shall be allowed in the case of an assessee whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession".

(4) Where a deduction under this section is claimed and allowed for any assessment year in respect of any payments of the nature specified in sub-section (2), deduction shall not be allowed in respect of such payments under any other provision of this Act for the same or any other assessment year.]]

C.—Deductions in respect of certain incomes

Deduction in case of new industrial undertakings employing displaced persons, etc.

80H. [*Omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Originally, it was inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.*]

8. Inserted by the Finance Act, 1982, w.e.f. 1-6-1982.
9. Inserted by the Finance Act, 1990, w.e.f. 1-4-1991.
10. Inserted, *ibid.*
11. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.
12. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

[13][**Deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas.**

[14]**80HH.**(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof.

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

(*i*) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970 [15][but before the 1st day of April, 1990], in any backward area;

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

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

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

(*iv*) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation.—Where any machinery or plant or any part thereof previously used for any purpose in any backward area is transferred to a new business in that area or in any other backward area and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*iii*) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely :—

(*i*) the business of the hotel has started or starts functioning after the 31st day of December, 1970 [16][but before the 1st day of April, 1990], in any backward area;

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

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

14. *See* also Circular No. 484, dated 1-5-1987. For details, *see* Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, p. 1.1331.

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

16. Inserted, *ibid.*

(*iii*) the hotel is for the time being approved for the purposes of this sub-section by the Central Government.

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or the business of the hotel starts functioning :

Provided that,—

(*i*) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(*ii*) in the case of the business of a hotel which has started functioning,

after the 31st day of December, 1970, but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974.

(5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form[17] duly signed and verified by such accountant.

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date :

Provided that where, in the opinion of the [18][Assessing] Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the [18][Assessing] Officer may compute such profits and gains on such reasonable basis as he may deem fit.

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17. *See* rule 18B and Form No. 10C for form of audit report.

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

Explanation.—In this sub-section, "market value" in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market.

(7) Where it appears to the [19][Assessing] Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel, the [19][Assessing] Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(8) [20][***]

(9) In a case where the assessee is entitled also to the deduction under [21][section 80-I or] section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section.

[22][(9A) Where a deduction in relation to the profits and gains of a small-scale industrial undertaking to which section 80HHA applies is claimed and allowed under that section for any assessment year, deduction in relation to such profits and gains shall not be allowed under this section for the same or any other assessment year.]

(10) Nothing contained in this section shall apply in relation to any undertaking engaged in mining.

[23][(11) For the purposes of this section, "backward area" means such area as the Central Government may, having regard to the stage of development of that area, by notification[24] in the Official Gazette, specify in this behalf :

Provided that any notification under this sub-section may be issued so as to have retrospective effect to a date not earlier than the 1st day of April, 1983.]

[25][**Deduction in respect of profits and gains from newly established small-scale industrial undertakings in certain areas.**

[26]**80HHA.** (1) Where the gross total income of an assessee includes any profits and gains derived from a small-scale industrial undertaking to which this section applies, there shall, in accordance with and subject to the provisions

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

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

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

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

23. Substituted for the following *Explanation* by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986 :
'*Explanation.*—In this section, "backward area" means an area specified in the list in the Eighth Schedule.'

24. For notified backward areas, *see* Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1332-1.1335.

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

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

of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof.

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

(*i*) it begins to manufacture or produce articles after the 30th day of September, 1977 [27][but before the 1st day of April, 1990], in any rural area ;

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

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

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

(*iv*) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation.—Where in the case of a small-scale industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*iii*) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) The deduction specified in sub-section (1) shall be allowed in computing the total income [28][of each of the ten previous years beginning with the previous year in which the industrial undertaking] begins to manufacture or produce articles :

[29][**Provided** that such deduction shall not be allowed in computing the total income of any of the ten previous years aforesaid in respect of which the industrial undertaking is not a small-scale industrial undertaking within the meaning of clause (*b*) of the *Explanation* below sub-section (8).]

(4) Where the assessee is a person, other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the small-scale industrial undertaking for the previous year relevant

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

28. Substituted for "in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the small-scale industrial undertaking" by the Finance Act, 1981, w.e.f. 1-4-1981.

29. Inserted, *ibid.*

to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form[30] duly signed and verified by such accountant.

(5) The provisions of sub-sections (6) and (7) of section 80HH shall, so far as may be, apply in relation to the computation of the profits and gains of a small-scale industrial undertaking for the purposes of the deduction under this section as they apply in relation to the computation of the profits and gains of an industrial undertaking for the purposes of the deduction under that section.

(6) In a case where the assessee is entitled also to the deduction under [31][section 80-I or] section 80J in relation to the profits and gains of a small-scale industrial undertaking to which this section applies, effect shall first be given to the provisions of this section.

(7) Where a deduction in relation to the profits and gains of a small-scale industrial undertaking to which section 80HH applies is claimed and allowed under that section for any assessment year, deduction in relation to such profits and gains shall not be allowed under this section for the same or any other assessment year.

(8) Nothing contained in this section shall apply in relation to any small-scale industrial undertaking engaged in mining.

Explanation.—For the purposes of this section,—

[32][(*a*) "rural area" means any area other than—

(*i*) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

(*ii*) an area within such distance, not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (*i*), as the Central Government may, having regard to the stage of development of such area (including the extent of, and scope for, urbanisation of such area) and other relevant considerations specify in this behalf by notification[33] in the Official Gazette ;]

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30. *See* rule 18BB and Form No. 10CC for form of audit report.

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

32. Substituted for the following clause by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 :

'(*a*) "rural area" shall have the same meaning as in clause (*b*) of the *Explanation* to sub-section (1) of section 35CC ;'

33. For specified areas, *see* Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, p. 1.1336.

[34][(b) *an industrial undertaking shall be deemed to be a small-scale industrial undertaking which is, on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B*[35] *of the Industries (Development and Regulation) Act, 1951 (65 of 1951)*].

[36][**Deduction in respect of profits and gains from projects outside India.**

[37]**80HHB.** (1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is resident in India includes any profits and gains derived from the business of—

(*a*) the execution of a foreign project undertaken by the assessee in pursuance of a contract entered into by him, or

(*b*) the execution of any work undertaken by him and forming part of a foreign project undertaken by any other person in pursuance of a contract entered into by such other person,

with the Government of a foreign State or any statutory or other public authority or agency in a foreign State, or a foreign enterprise, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to [38][fifty] per cent thereof :

Provided that the consideration for the execution of such project or, as the case may be, of such work is payable in convertible foreign exchange.

(2) For the purposes of this section,—

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

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34. Substituted by the Finance Act, 1999, w.r.e.f. **1-4-1978.** Prior to its substitution, clause (*b*), as amended by the Finance Act, 1981, w.e.f. 1-4-1981 and Finance Act, 1986, w.r.e.f. 1-4-1985, read as under :

"(*b*) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed,—

(*1*) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees ;

(*2*) in a case where the previous year ends after the 31st day of July, 1980 but before the 18th day of March, 1985, twenty lakh rupees ; and

(*3*) in a case where the previous year ends after the 17th day of March, 1985, thirty-five lakh rupees,

and for this purpose the value of any machinery or plant shall be,—

(*i*) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee ; and

(*ii*) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant."

35. For text of section 11B of the Industries (Development and Regulation) Act, 1951, *see* **Appendix One.**

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

37. *See* also Circular No. 563, dated 23-5-1990, Circular No. 575, dated 31-8-1990 and Circular No. 711, dated 24-7-1995. For details, *see* Taxmann's Master Guide to Income-tax Act. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

38. Substituted for "twenty-five" by the Income-tax (Amendment) Act, 1986, w.e.f. 1-4-1987.

(*b*) "foreign project" means a project for—

(*i*) the construction of any building, road, dam, bridge or other structure outside India ;

(*ii*) the assembly or installation of any machinery or plant outside India ;

(*iii*) the execution of such other work (of whatever nature) as may be prescribed.

(3) The deduction under this section shall be allowed only if the following conditions are fulfilled, namely :—

(*i*) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the foreign project, or, as the case may be, of the work forming part of the foreign project undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form[39] duly signed and verified by such accountant ;

[39a]**[**(ia) *the assessee furnishes, along with his return of income, a certificate in the prescribed form from an accountant as defined in the* Explanation *below sub-section (2) of section 288, duly signed and verified by such accountant, certifying that the deduction has been correctly claimed in accordance with the provisions of this section ;* **]**

(*ii*) an amount equal to [40][fifty] per cent of the profits and gains referred to in sub-section (1) is debited to the profit and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the "Foreign Projects Reserve Account") to be utilised by the assessee during a period of five years next following for the purposes of his business other than for distribution by way of dividends or profits ;

(*iii*) an amount equal to [40][fifty] per cent of the profits and gains referred to in sub-section (1) is brought by the assessee in convertible foreign exchange into India, in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder, within a period of six months from the end of the previous year referred to in clause (*ii*) or, [41]**[***within such further period as the competent authority may allow in this behalf***]** :

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39. *See* rule 18BBA(1) and Form No. 10CCA for form of audit report.

39a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

40. Substituted for "twenty-five" by the Income-tax (Amendment) Act, 1986, w.e.f. 1-4-1987.

41. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to its substitution, the said portion, as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

Provided that where the amount credited by the assessee to the Foreign Projects Reserve Account in pursuance of clause (*ii*) or the amount brought into India by the assessee in pursuance of clause (*iii*) or each of the said amounts is less than [42][fifty] per cent of the profits and gains referred to in sub-section (1), the deduction under that sub-section shall be limited to the amount so credited in pursuance of clause (*ii*) or the amount so brought into India in pursuance of clause (*iii*), whichever is less.

[42a]**[**Explanation.—*For the purposes of clause (*iii*), the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

(4) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Foreign Projects Reserve Account for distribution by way of dividends or profits or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed, and the [43][Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the money was so utilised.

(5) Notwithstanding anything contained in any other provision of this Chapter under the heading *"C.—Deductions in respect of certain incomes"*, no part of the consideration or of the income comprised in the consideration payable to the assessee for the execution of a foreign project referred to in clause (*a*) of sub-section (1) or of any work referred to in clause (*b*) of that sub-section shall qualify for deduction for any assessment year under any such other provision.]

[44][**Deduction in respect of profits and gains from housing projects in certain cases.**

80HHBA. *(1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is a resident in India includes any profits and gains derived from the execution of a housing project awarded to the assessee on the basis of global tender and such project is aided by the World Bank, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to fifty per cent thereof.*

(2) The deductions under this section shall be allowed only if the following conditions are fulfilled, namely :—

(i) *the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the housing project*

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42. Substituted for "twenty-five" by the Income-tax (Amendment) Act, 1986, w.e.f. 1-4-1987.

42a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

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

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

undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts have been audited by an accountant as defined in the Explanation *below sub-section (2) of section 288 and the assessee furnishes along with his return of income the report of such audit in the prescribed form*[44a] *duly signed and verified by such accountant;*

(ii) *an amount equal to fifty per cent of the profits and gains referred to in sub-section (1) is debited to the profits and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the Housing Projects Reserve Account) to be utilised by the assessee during a period of five years next following for the purposes of his business other than for distribution by way of dividends or profit :*

Provided *that where the amount credited by the assessee to the Housing Projects Reserve Account in pursuance of clause (*ii*) is less than fifty per cent of the profits and gains referred to in sub-section (1), the deduction under this section shall be limited to the amount so credited in pursuance of clause (*ii*).*

(3) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profit or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment and the provision of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the money was so utilised.

(4) Notwithstanding anything contained in any other provision of this Chapter under heading "C.—Deduction in respect of certain incomes", no part of the income payable to the assessee for the execution of a housing project under sub-section (1) shall qualify for deduction for any assessment year under any other provision.

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

(a) *"housing project" means a project for—*

(i) *the construction of any building, road, bridge or other structure in any part of India;*

(ii) *the execution of such other work (of whatever nature) as may be prescribed;*

(b) *"World Bank" means the International Bank for Reconstruction and Development Bank referred to in the International Monetary Fund and Bank Act, 1945.*]

44a. See rule 18BBA(1A) and Form No. 10CCAA.

[45][**Deduction in respect of profits retained for export business.**

[46]**80HHC.** [47][(1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which this section applies,

45. Substituted by the Finance Act, 1985, w.e.f. 1-4-1986. Original section, as inserted by the Finance Act, 1983, w.e.f. 1-4-1983, stood as under :

'80HHC. *Deduction in respect of export turnover*.—(1) Where the assessee, being an Indian company or a person (other than a company) who is resident in India, exports out of India during the previous year relevant to an assessment year any goods or merchandise to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, the following deductions, namely :—

(*a*) a deduction of an amount equal to one per cent of the export turnover of such goods or merchandise during the previous year ; and

(*b*) a deduction of an amount equal to five per cent of the amount by which the export turnover of such goods or merchandise during the previous year exceeds the export turnover of such goods or merchandise during the immediately preceding previous year.

(2)(*a*) This section applies to all goods or merchandise [other than those specified in clause (*b*)] if the sale proceeds of such goods or merchandise exported out of India are receivable by the assessee in convertible foreign exchange.

(*b*) The goods or merchandise referred to in clause (*a*) are the following, namely :—

(*i*) agricultural primary commodities, not being produce of plantations ;

(*ii*) mineral oil ;

(*iii*) minerals and ores ; and

(*iv*) such other goods or merchandise as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) No deduction under clause (*b*) of sub-section (1) shall be allowed unless the assessee had, during the immediately preceding previous year, exported out of India goods or merchandise to which this section applies.

Explanation.—For the purposes of this section,—

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

(*b*) "export turnover" means the sale proceeds of any goods or merchandise exported out of India, but does not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station as defined in the Customs Act, 1962 (52 of 1962).'

46. *See* also Letter [F.No. 178/206/83-IT (A-I)], dated 22-5-1984, Circular No. 466, dated 14-8-1986, Circular No. 562, dated 23-5-1990, Circular No. 564, dated 5-7-1990, Circular No. 571, dated 1-8-1990, Circular No. 575, dated 31-8-1990, Circular No. 600, dated 23-4-1991, Circular No. 624, dated 23-1-1992, Circular No. 693, dated 17-11-1994 and Circular No. 729, dated 1-11-1995. For details, *see* Taxmann's Master Guide to Income-tax Act.

47. Substituted by the Finance Act, 1988, w.e.f. 1-4-1989. Prior to its substitution, sub-section (1), as amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987, stood as under :

"(1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction equal to the aggregate of—

(*a*) four per cent of the net foreign exchange realisation ; and

(*b*) fifty per cent of so much of the profits derived by the assessee from the export of such goods or merchandise as exceeds the amount referred to in clause (*a*) :

(Contd. on p. 1.375)

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the [48][profits] derived by the assessee from the export of such goods or merchandise :

Provided that if the assessee, being a holder of an Export House Certificate or a Trading House Certificate (hereafter in this section referred to as an Export House or a Trading House, as the case may be,) issues a certificate referred to in clause (*b*) of sub-section (4A), that in respect of the amount of the export turnover specified therein, the deduction under this sub-section is to be allowed to a supporting manufacturer, then the amount of deduction in the case of the assessee shall be reduced by such amount which bears to the [49][total profits derived by the assessee from the export of trading goods, the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee in respect of such trading goods].

(1A) Where the assessee, being a supporting manufacturer, has during the previous year, sold goods or merchandise to any Export House or Trading House in respect of which the Export House or Trading House has issued a certificate under the proviso to sub-section (1), there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee, a deduction of the [50][profits] derived by the assessee from the sale of goods or merchandise to the Export House or Trading House in respect of which the certificate has been issued by the Export House or Trading House.]

(2)(*a*) This section applies to all goods or merchandise, other than those specified in clause (*b*), if the sale proceeds of such goods or merchandise exported out of India are [51][received in, or brought into, India] by the assessee [52][(other than the supporting manufacturer)] in convertible foreign exchange [53][, within a period of six months from the end of the previous year or, [53a]**[***within such further period as the competent authority may allow in this behalf***]**.]

(Contd. from p. 1.374)

Provided that the deduction under this sub-section shall not exceed the profits derived by the assessee from the export of such goods or merchandise :

Provided further that an amount equal to the amount of the deduction claimed under this sub-section is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee."

48. Substituted for "whole of the income" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

49. Substituted for the words "total profits of the export business of the assessee the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee" by the Finance Act, 1992, w.e.f. 1-4-1992.

50. Substituted for "whole of the income" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

51. Substituted for "receivable" by the Finance Act, 1990, w.e.f. 1-4-1991.

52. Inserted, *ibid.*, w.r.e.f. 1-4-1989.

53. Inserted, *ibid.*, w.e.f. 1-4-1991.

53a. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution, the said portion, as inserted by the Finance Act, 1990, w.e.f. 1-4-1991, read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

[53b]**[**Explanation.—*For the purposes of this clause, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

(*b*) This section does not apply to the following goods or merchandise, namely :—

(*i*) mineral oil ; and

(*ii*) minerals and ores [54][(other than processed minerals and ores specified in the Twelfth Schedule)].

[55][*Explanation 1*.—The sale proceeds referred to in clause (*a*) shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

Explanation 2.—For the removal of doubts, it is hereby declared that where any goods or merchandise are transferred by an assessee to a branch, office, warehouse or any other establishment of the assessee situate outside India and such goods or merchandise are sold from such branch, office, warehouse or establishment, then, such transfer shall be deemed to be export out of India of such goods and merchandise and the value of such goods or merchandise declared in the shipping bill or bill of export as referred to in sub-section (1) of section 50[56] of the Customs Act, 1962 (52 of 1962), shall, for the purposes of this section, be deemed to be the sale proceeds thereof.]

[57][(3) For the purposes of sub-section (1),—

(*a*) where the export out of India is of goods or merchandise manufactured [58][or processed] by the assessee, the profits derived from such export shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such goods bears to the total turnover of the business carried on by the assessee ;

(*b*) where the export out of India is of trading goods, the profits derived from such export shall be the export turnover in respect of such trading goods as reduced by the direct costs and indirect costs attributable to such export ;

53b. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

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

55. Inserted, *ibid.*, w.e.f. 1-4-1992.

56. For text of section 50 of the Customs Act, 1962, *see* **Appendix One.**

57. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to substitution, sub-section (3), as substituted by the Finance Act, 1990, w.e.f. 1-4-1991, stood as under :

'(3) For the purposes of sub-section (1), profits derived from the export of goods or merchandise out of India shall be the amount which bears to the profits of the business (as computed under the head "Profits and gains of business or profession"), the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.'

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

(*c*) where the export out of India is of goods or merchandise manufactured [59][or processed] by the assessee and of trading goods, the profits derived from such export shall,—

(*i*) in respect of the goods or merchandise manufactured [59][or processed] by the assessee, be the amount which bears to the adjusted profits of the business, the same proportion as the adjusted export turnover in respect of such goods bears to the adjusted total turnover of the business carried on by the assessee ; and

(*ii*) in respect of trading goods, be the export turnover in respect of such trading goods as reduced by the direct and indirect costs attributable to export of such trading goods :

Provided that the profits computed under clause (*a*) or clause (*b*) or clause (*c*) of this sub-section shall be further increased by the amount which bears to ninety per cent of any sum referred to in clause (*iiia*) (not being profits on sale of a licence acquired from any other person), and clauses (*iiib*) and (*iiic*) of section 28, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

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

(*a*) "adjusted export turnover" means the export turnover as reduced by the export turnover in respect of trading goods ;

(*b*) "adjusted profits of the business" means the profits of the business as reduced by the profits derived from the business of export out of India of trading goods as computed in the manner provided in clause (*b*) of sub-section (3) ;

(*c*) "adjusted total turnover" means the total turnover of the business as reduced by the export turnover in respect of trading goods ;

(*d*) "direct costs" means costs directly attributable to the trading goods exported out of India including the purchase price of such goods ;

(*e*) "indirect costs" means costs, not being direct costs, allocated in the ratio of the export turnover in respect of trading goods to the total turnover ;

(*f*) "trading goods" means goods which are not manufactured [60][or processed] by the assessee.]

[61][(3A) For the purposes of sub-section (1A), profits derived by a supporting manufacturer from the sale of goods or merchandise shall be,—

(*a*) in a case where the business carried on by the supporting manufacturer consists exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the profits of the business [62][***] ;

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

60. Inserted, *ibid.*

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

62. Words 'as computed under the head "Profits and gains of business or profession"' omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

(*b*) in a case where the business carried on by the supporting manufacturer does not consist exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the amount which bears to the profits of the business [63][***] the same proportion as the turnover in respect of sale to the respective Export House or Trading House bears to the total turnover of the business carried on by the assessee.]

[64][(4) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form[65], along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed [66][in accordance with the provisions of this section.]]

[67][(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting manufacturer furnishes in the prescribed form along with his return of income,—

[68](*a*) the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the [69][profits] of the supporting manufacturer in respect of his sale of goods or merchandise to the Export House or Trading House ; and

(*b*) a certificate from the Export House or Trading House containing such particulars as may be prescribed and verified in the manner prescribed[70] that in respect of the export turnover mentioned in the certificate, the Export House or Trading House has not claimed the deduction under this section :

Provided that the certificate specified in clause (*b*) shall be duly certified by the auditor auditing the accounts of the Export House or Trading House under the provisions of this Act or under any other law.]

[71]**[***(4B) For the purposes of computing the total income under sub-section (1) or sub-section (1A), any income not charged to tax under this Act shall be excluded.***]**

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63. Words '(as computed under the head "Profits and gains of business or profession")' omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

64. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987.

65. *See* rule 18BBA(3) and Form No. 10CCAC for form of report of accountant.

66. Substituted for "on the basis of the amount of export turnover" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Earlier, words "export turnover" were substituted for "net foreign exchange realisation as determined in accordance with the Import and Export Policy of the Government of India for the relevant period" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

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

68. *See* rule 18BBA(3) and Form No. 10CCAC for form of report of accountant.

69. Substituted for "income" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

70. *See* rule 18BBA(2) and Form No. 10CCAB for form of certificate from export/trading house to supporting manufacturer.

71. Inserted by the Finance Act, 1999, w.r.e.f. **1-4-1992.**

Explanation.—For the purposes of this section,—

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

[72][(*aa*) "export out of India" shall not include any transaction by way of sale or otherwise, in a shop,[73]emporium or any other establishment situate in India, not involving clearance at any customs station[74] as defined in the Customs Act, 1962 (52 of 1962) ;]

(*b*) "export turnover" means the sale proceeds [75][, received in, or brought into, India] by the assessee in convertible foreign exchange [76][in accordance with clause (*a*) of sub-section (2)] of any goods or merchandise to which this section applies and which are exported out of India, but does not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station[74] as defined in the Customs Act, 1962 (52 of 1962) ;]

[77][(*ba*) "total turnover" shall not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station[74] as defined in the Customs Act, 1962 (52 of 1962) :

Provided that in relation to any assessment year commencing on or after the 1st day of April, 1991, the expression "total turnover" shall have effect as if it also excluded any sum referred to in clauses (*iiia*), (*iiib*) and (*iiic*) of section 28 ;]

[78][(*baa*) "profits of the business" means the profits of the business as computed under the head "Profits and gains of business or profession" as reduced by—

(*1*) ninety per cent of any sum referred to in clauses (*iiia*), (*iiib*) and (*iiic*) of section 28 or of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits ; and

(*2*) the profits of any branch, office, warehouse or any other establishment of the assessee situate outside India ;]

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72. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1986.

73. *See* Circular No. 624, dated 23-1-1992. For details, *see* Taxmann's Master Guide to Income-tax Act.

74. Section 2(*13*) of the Customs Act, 1962, defines "customs station" as follows :
'(*13*) "customs station" means any customs port, customs airport or land customs station ;'

75. Substituted for "receivable" by the Finance Act, 1990, w.e.f. 1-4-1991.

76. Inserted, *ibid.*

77. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1987.

78. Inserted, *ibid.*, w.e.f. 1-4-1992.

[79][***]

[80][***]

[81][[82][(*c*)] "Export House Certificate" or "Trading House Certificate" means a valid Export House Certificate or Trading House Certificate, as the case may be, issued by the Chief Controller of Imports and Exports, Government of India ;

[82][(*d*)] "supporting manufacturer" means a person being an Indian company or a person (other than a company) resident in India, [83][manufacturing (including processing) goods] or merchandise and selling such goods or merchandise to an Export House or a Trading House for the purposes of export.]

[84][**Deduction in respect of earnings in convertible foreign exchange.**

80HHD. (1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of a hotel or of a tour operator, approved by the prescribed authority[85] in this behalf or of a travel agent, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of a sum equal to the aggregate of—

(*a*) fifty per cent of the profits derived by him from services provided to foreign tourists ; and

(*b*) so much of the amount out of the remaining profits referred to in clause (*a*) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4) :

[86][**Provided** that a hotel or, as the case may be, a tour operator approved by the prescribed authority on or after the 30th day of November, 1989 and before the 1st day of October, 1991, shall be deemed to have been approved by the prescribed authority for the purposes of this section in relation to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or, as the case may be, the 1st day of April, 1991 if the assessee was engaged in the business of such hotel or as such tour operator during the previous year relevant to any of the said assessment years.]

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79. Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Prior to its omission, clause (*bb*) as inserted by the Finance Act, 1990, w.e.f. 1-4-1991, read as under :

' "total turnover" shall not include any sum referred to in clauses (*iiia*), (*iiib*) and (*iiic*) of section 28 ;'

80. Clause (*c*) omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Original clause (*c*) was inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987.

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

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

83. Substituted for "manufacturing goods" by the Finance Act, 1990, w.e.f. 1-4-1991.

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

85. The prescribed authority under rule 18BBA(5) is Director General, Directorate General of Tourism, Government of India.

86. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

(2) This section applies only to services provided to foreign tourists the receipts in relation to which are received [87][in, or brought into, India by the assessee in convertible foreign exchange within a period of six months from the end of the previous year or, [87a]**[***within such further period as the competent authority may allow in this behalf***]**.]

[88][*Explanation* [88a]**[***1***]**.—For the purposes of this sub-section, any payment received by an assessee, engaged in the business of a hotel or of a tour operator or of a travel agent, in Indian currency obtained by conversion of foreign exchange brought into India through an authorised dealer, [89][from another hotelier, tour operator or travel agent, as the case may be,] on behalf of a foreign tourist or group of foreign tourists, shall be deemed to have been received by the assessee in convertible foreign exchange if the person making the payment furnishes to the assessee a certificate specified in sub-section (2A).

[88a]**[**Explanation 2.—*For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

(2A) Every person making payment to an assessee referred to in the *Explanation* [88a]**[***1***]** to sub-section (2) out of Indian currency obtained by conversion of foreign exchange received from or on behalf of a foreign tourist or a group of foreign tourists shall furnish to that assessee a certificate in the prescribed form[90] indicating the amount received in foreign exchange, its conversion into Indian currency and such other particulars as may be prescribed.]

[91][(3) For the purposes of sub-section (1), profits derived from services provided to foreign tourists shall be the amount which bears to the profits of the business (as computed under the head "Profits and gains of business or profession") the same proportion as the receipts specified in sub-section (2) [92][[as reduced by any payment, referred to in sub-section (2A), made by the assessee]] bear to the total receipts of the business carried on by the assessee.]

(4) The amount credited to the reserve account under clause (*b*) of sub-section (1), shall be utilised by the assessee before the expiry of a period of five years next following the previous year in which the amount was credited for the following purposes, namely :—

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87. Substituted for "by the assessee in convertible foreign exchange" by the Finance Act, 1990, w.e.f. 1-4-1991.

87a. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution the quoted portion, as amended by the Finance Act, 1990, w.e.f. 1-4-1991, read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

88. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

88a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

89. Substituted for "from a tour operator or, as the case may be, a travel agent" by the Finance Act, 1994, w.e.f. 1-4-1995.

90. *See* rule 18BBA(6) and Form No. 10CCAE for certificate from person making payment to an assessee engaged in business of tour operator/hotel/travel agent.

91. Substituted by the Finance Act, 1990, w.e.f. 1-4-1991.

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

(*a*) construction of new hotels approved by the prescribed authority in this behalf or expansion of facilities in existing hotels already so approved ;

(*b*) purchase of new cars and new coaches by tour operators already so approved or by travel agents ;

(*c*) purchase of sports' equipment for mountaineering, trekking, golf, river-rafting and other sports in or on water ;

(*d*) construction of conference or convention centres ;

(*e*) provision of such new facilities for the growth of Indian tourism as the Central Government may, by notification in the Official Gazette, specify in this behalf ;

The following clause (f) shall be inserted after clause (e) of sub-section (4) of section 80HHD by the Finance Act, 1999, w.e.f. 1-4-2000 :

*(*f) *subscription to equity shares forming part of any eligible issue of capital made by a public company:*

Provided that where any of the activities referred to in clauses (*a*) to [92a]**[**(*e*)**]** would result in creation of any asset owned by the assessee outside India, such asset should be created only after obtaining prior approval of the prescribed authority.

(5) Where any amount credited to the reserve account under clause (*b*) of sub-section (1),—

(*a*) has been utilised for any purpose other than those referred to in sub-section (4), the amount so utilised; or

(*b*) has not been utilised in the manner specified in sub-section (4), the amount not so utilised,

shall be deemed to be the profits,—

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of five years specified in sub-section (4),

and shall be charged to tax accordingly.

The following sub-section (5A) shall be inserted after sub-section (5) of section 80HHD by the Finance Act, 1999, w.e.f. 1-4-2000 :

*(5A) Where any amount credited to the reserve account under clause (*b*) of sub-section (1) has been utilised for subscription to any equity shares referred to in clause (*f*) of sub-section (4) and either whole or any part of such equity shares are transferred or converted into money by the assessee at any time within a period of three years from the date of their acquisition, the aggregate amount so utilised in respect of such equity shares shall be deemed to be the profits of the previous year in which the equity shares are transferred or converted into money.*

Explanation.—*A person shall be treated as having acquired any shares on the date on which his name is entered in relation to those shares in the register of members of the public company.*

92a. Letter "(*f*)" shall be substituted for "(*e*)" by the Finance Act, 1999, w.e.f. **1-4-2000.**

(6) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form[93], along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the [94][[95][***] amount of convertible foreign exchange received by the assessee for services provided by him to foreign tourists [96][, payments made by him to any assessee referred to in sub-section (2A)] and the payments received by him in Indian currency as referred to in the *Explanation* [96a]**[***1***]** to sub-section (2).]

[97][*(7) Where a deduction under sub-section (1) is claimed and allowed in respect of profits derived from the business of a hotel, such part of profits shall not qualify to that extent for deduction for any assessment year under any other provisions of this Chapter under the heading* "C.—Deductions in respect of certain incomes"*, and shall in no case exceed the profits and gains of such hotel*.]

Explanation.—For the purposes of this section,—

(*a*) "travel agent" means a travel agent or other person (not being an airline or a shipping company) who holds a valid licence granted by the Reserve Bank of India under section 32[98] of the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(*b*) "convertible foreign exchange" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 80HHC;

(*c*) "services provided to foreign tourists" shall not include services by way of sale in any shop owned or managed by the person who carries on the business of a hotel or of a tour operator or of a travel agent;

[99][(*d*) [1]"authorised dealer", [2]"foreign exchange" and [3]"Indian currency" shall have the meanings respectively assigned to them in clauses (*b*), (*h*) and (*k*) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973).]

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93. *See* rule 18BBA(4) and Form No. 10CCAD for form of report of accountant.

94. Substituted for "amount of convertible foreign exchange received by the assessee for services provided by him to the foreign tourists" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

95. Words "aggregate of the" omitted by the Finance Act, 1994, w.e.f. 1-4-1995.

96. Inserted, *ibid*.

96a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

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

98. Section 32 has been omitted by the Foreign Exchange Regulation (Amendment) Act, 1993, w.r.e.f. 8-1-1993.

99. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

1. For definition of "authorised dealer", *see* footnote 71 on p. 1.246 *ante*.

2. Clause (*h*) of section 2 of the Foreign Exchange Regulation Act, 1973, defines "foreign exchange" as follows :

'(*h*) "foreign exchange" means foreign currency and includes—

(*i*) all deposits, credits and balances payable in any foreign currency, and any drafts, traveller's cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency;

(*ii*) any instrument payable, at the option of the drawee or holder thereof or any other party thereto, either in Indian currency or in foreign currency or partly in one and partly in the other ;'

3. For definition of "Indian currency", *see* footnote 69 on p. 1.246 *ante*.

The following clause (e) shall be inserted after clause (d) of Explanation to section 80HHD by the Finance Act, 1999, w.e.f. 1-4-2000 :

(e) *"eligible issue of capital" means an issue made by a public company formed and registered in India and the entire proceeds of the issue is utilised wholly and exclusively for the purpose of carrying on the business of—*

(i) *setting up and running of new hotels approved by the prescribed authority; or*

(ii) *providing such new facility for the growth of tourism in India, as the Central Government may, by notification in the Official Gazette, specify.*

[4][**Deduction in respect of profits from export of computer software, etc.**

80HHE. (1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of,—

(*i*) export out of India of computer software or its transmission from India to a place outside India by any means;

(*ii*) providing technical services outside India in connection with the development or production of computer software,

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the profits derived by the assessee from such business.

[5][***]

[6][**Provided** *that if the assessee, being a company, engaged in the export out of India of computer software, issues a certificate referred to in clause (*b*) of sub-section (4A), that in respect of the amount of the export specified therein, the deduction under this sub-section is to be allowed to a supporting software developer, then the amount of deduction in the case of an assessee shall be reduced by such amount which bears to the total profits derived by the assessee from the export, the same proportion as the amount of the export turnover specified in such certificate bears to the total export turnover of the assessee.*

(1A) Where the assessee, being a supporting software developer, has during the previous year, developed and sold computer software to an exporting company in respect of which the said company has issued a certificate under the proviso to sub-section (1), there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee a deduction of the profits derived by the assessee from the developing and selling of computer software to the exporting company in respect of which the certificate has been issued by the said company.]

(2)The deduction specified in sub-section (1) shall be allowed only if the consideration in respect of the computer software referred to in that sub-section is received in, or brought into, India by the assessee in convertible foreign ex-

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

5. Proviso omitted by the Finance Act, 1995, w.e.f. 1-4-1996. Prior to its omission, the proviso, as amended by the Finance Act, 1993, w.e.f. 13-5-1993 and the Finance Act, 1994, w.e.f. 13-5-1994, read as under :

"**Provided** that no such deduction shall be allowed in relation to the assessment year commencing on the 1st day of April, 1996 or any subsequent assessment year."

6. Proviso and sub-section (1A) inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**

change, within a period of six months from the end of the previous year or, [6a]**[***within such further period as the competent authority may allow in this behalf***]**.

Explanation [6b]**[***1***]**.—The said consideration shall be deemed to have been received in India where it is credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

[6b]**[**Explanation 2.—*For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

(3) For the purposes of sub-section (1), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

[7][*(3A) For the purposes of sub-section (1A), profits derived by a supporting software developer shall be,—*

*(*i) *in a case where the business carried on by the supporting software developer consists exclusively of developing and selling of computer software to one or more exporting companies solely engaged in exports, the profits of such business;*

*(*ii) *in a case where the business carried on by a supporting software developer does not consist exclusively of developing and selling of computer software to one or more exporting companies, the amount which bears to the profits of the business, the same proportion as the turnover in respect of sale to the respective exporting company bears to the total turnover of the business carried on by the assessee.*]

(4)The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form[8], along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

[9][*(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting software developer furnishes in the prescribed form along with his return of income,—*

**(*i) *the report of an accountant*[9a]*, as defined in the* Explanation *below sub-section (2) of section 288, certifying that the deduction has been*

6a. Substituted for the portion beginning with the words "where the Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution, the said portion, as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991, read as under :

"where the Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Commissioner may allow in this behalf"

6b. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

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

8. *See* rule 18BBA(7) and Form No. 10CCAF for form of report of accountant.

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

9a. *See* rule 18BBA(7) and Form No. 10CCAF for form of report of accountant.

*"(*i*)" should be read as "(*a*)".

correctly claimed on the basis of the profits of the supporting software developer in respect of sale of computer software to the exporting company; and

*(ii) *a certificate*[10a] *from the exporting company containing such particulars as may be prescribed and verified in the manner prescribed that in respect of the export turnover mentioned in the certificate, the exporting company has not claimed deduction under this section :*

Provided *that the certificate specified in clause (*b*) shall be duly certified by the auditor auditing the accounts of the exporting assessee under the provisions of this Act or under any other law.*]

(5) Where a deduction under this section is claimed and allowed in respect of profits of the business referred to in sub-section (1) for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for the same or any other assessment year.

Explanation.—For the purposes of this section,—

(*a*) "convertible foreign exchange" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 80HHC;

(*b*) "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme [10][*or any customised electronic data*] which is transmitted from India to a place outside India by any means;

(*c*) "export turnover" means the consideration in respect of computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (2), but does not include freight, telecommunication charges or insurance attributable to the delivery of the computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

[10][(ca) *"exporting company" means a company referred to in sub-section (1) making actual export of computer software;*]

(*d*) "profits of the business" means the profits of the business as computed under the head "Profits and gains of business or profession" as reduced by—

(*1*) ninety per cent of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits; and

(*2*) the profits of any branch, office, warehouse or any other establishment of the assessee situate outside India;

(*e*) "total turnover" shall not include—

(*i*) any sum referred to in clauses (*iiia*), (*iiib*) and (*iiic*) of section 28;

(*ii*) any freight, telecommunication charges or insurance attributable to the delivery of the computer software outside India; and

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

10a. See rule 18BBA(8) and Form No. 10CCAG.

*"(*ii*)" should be read as "(*b*)".

(*iii*) expenses, if any, incurred in foreign exchange in providing the technical services outside India.]

[10b][(ea) *"supporting software developer" means an Indian company or a person (other than a company) resident in India, developing and selling computer software to an exporting company for the purposes of export.*]

The following section 80HHF shall be inserted after section 80HHE by the Finance Act, 1999, w.e.f. 1-4-2000 :

Deduction in respect of profits and gains from export or transfer of film software, etc.

80HHF. *(1) Where an assessee, being an Indian company, is engaged in the business of export or transfer by any means out of India, of any film software, television software, music software, television news software, including telecast rights (hereafter in this section referred to as the software or software rights), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the profits derived by the assessee from such business.*

(2) The deduction specified in sub-section (1) shall be allowed only if the consideration in respect of the software or software rights referred to in that sub-section is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

(3) For the purposes of sub-section (1), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

(4) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation *below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.*

(5) Where a deduction under this section is claimed and allowed in respect of profits of the business referred to in sub-section (1) for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for the same or any other assessment year.

(6) Notwithstanding anything contained in this section, no deduction shall be allowed in respect of the software or software rights referred to in sub-section (1), if such business is prohibited by any law for the time being in force.

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

(a) *"competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;*

(b) *"convertible foreign exchange" shall have the meaning assigned to it in clause* (a) *of the* Explanation *to section 80HHC;*

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

(c) *"export turnover" means the consideration in respect of the software or software rights specified in clauses* (d), (e), (g), (h) *and* (i), *received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (2), but does not include freight, telecommunication charges or insurance attributable to the delivery of such software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;*

(d) *"film software" means a copy of a cinematograph film made by any process analogous to cinematography on acetate polyester or celluloid film positive, magnetic tape, digital media or other optical or magnetic devices and certified by the Board of film certification constituted by the Central Government under section 3 of the Cinematograph Act, 1952 (37 of 1952);*

(e) *"music software" includes series of sounds or music recorded on magnetic tape, cassette, compact discs and digital media which can be played or reproduced on any appropriate apparatus;*

(f) *"profits of the business" means the profits of the business as computed under the head "Profits and gains of business or profession" as reduced by—*

(A) *ninety per cent of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits; and*

(B) *the profits of any branch, office, warehouse or any other establishment of the assessee situated outside India;*

(g) *"telecast rights" means a licence or contract to exhibit motion pictures or television programmes over a television network either through terrestrial transmission or through a satellite broadcast in a specified territory;*

(h) *"television news software" means a collection of sounds and images, reportage, data and voice of actualities broadcast either through terrestrial transmission, wire or satellite, live or pre-recorded on video cassettes or digital media;*

(i) *"television software" means any programme or series of sounds and images recorded on film or tape or digital media or broadcast through terrestrial transmitter, satellite or any other means of diffusion;*

(j) *"total turnover" shall not include—*

(A) *any sum referred to in clauses* (iiia), (iiib) *and* (iiic) *of section 28;*

(B) *any freight, telecommunication charges or insurance attributable to the delivery of the film software, music software, telecast rights, television news software, or television software as defined in clause* (d), (e), (g), (h) *or* (i), *as the case may be, outside India;*

(C) *expenses, if any, incurred in foreign exchange in providing the technical services outside India.*

[11][**Deduction in respect of profits and gains from industrial undertakings after a certain date, etc.**

[12]**80-I.** (1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking or a ship or the business of a hotel [13][or the business of repairs to ocean-going vessels or other powered craft], to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof:

Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect [14][in relation to profits and gains derived from an industrial undertaking or a ship or the business of a hotel] as if for the words "twenty per cent", the words "twenty-five per cent" had been substituted.

[15][(1A) Notwithstanding anything contained in sub-section (1), in relation to any profits and gains derived by an assessee from—

(*i*) an industrial undertaking which begins to manufacture or produce articles or things or to operate its cold storage plant or plants; or

(*ii*) a ship which is first brought into use; or

(*iii*) the business of a hotel which starts functioning,

on or after the 1st day of April, 1990, [16][but before the 1st day of April, 1991], there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty-five per cent thereof :

Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect in relation to profits and gains derived from an industrial undertaking or a ship or the business of a hotel as if for the words "twenty-five per cent", the words "thirty per cent" had been substituted.]

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

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

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

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11. Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981. Originally, provision relating to priority industries was dealt with by section 80E which was inserted by the Finance Act, 1966, w.e.f. 1-4-1966. That section was omitted and in its place section 80-I was introduced by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Section 80-I was also omitted by the Finance Act, 1972, w.e.f. 1-4-1973.

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

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

14. Inserted, *ibid.*

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

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

(*iii*) it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India, and begins to manufacture or produce articles or things or to operate such plant or plants, at any time within the period of [17][ten] years next following the 31st day of March, 1981, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(*iv*) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power :

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

Provided further that the condition in clause (*iii*) shall, in relation to a small-scale industrial undertaking, apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.

Explanation 1.—For the purposes of clause (*ii*) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.

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17. Substituted for "fourteen" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Earlier "fourteen" was substituted for "nine" by the Finance Act, 1990, w.e.f. 1-4-1990 which was earlier substituted for "four" by the Finance Act, 1985, w.e.f. 1-4-1985.

Explanation 3.—For the purposes of this sub-section, "small-scale industrial undertaking" shall have the same meaning as in clause (*b*) of the *Explanation* below sub-section (8) of section 80HHA.

(3) This section applies to any ship, where all the following conditions are fulfilled, namely :—

(*i*) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(*ii*) it was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and

(*iii*) it is brought into use by the Indian company at any time within the period of [18][ten] years next following the 1st day of April, 1981.

(4) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely :—

(*i*) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(*ii*) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(*iii*) the hotel is for the time being approved for the purposes of this sub-section by the Central Government;

(*iv*) the business of the hotel starts functioning after the 31st day of March, 1981, but before the 1st day of April, [19][1991].

[20][(4A) This section applies to the business of repairs to ocean-going vessels or other powered craft which fulfils all the following conditions, namely :—

(*i*) the business is not formed by the splitting up, or the reconstruction, of a business already in existence;

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

(*iii*) it is carried on by an Indian company and the work by way of repairs to ocean-going vessels or other powered craft has been commenced by such company after the 31st day of March, 1983, but before the 1st day of April, 1988; and

(*iv*) it is for the time being approved for the purposes of this sub-section by the Central Government.]

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18. Substituted for "fourteen" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Earlier "fourteen" was substituted for "nine" by the Finance Act, 1990, w.e.f. 1-4-1990 which was earlier substituted for "four" by the Finance Act, 1985, w.e.f. 1-4-1985.

19. Substituted for "1995" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Earlier "1995" was substituted for "1990" by the Finance Act, 1990, w.e.f. 1-4-1990 which was earlier substituted for "1985" by the Finance Act, 1985, w.e.f. 1-4-1985.

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

(5) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning [21][or the company commences work by way of repairs to ocean-going vessels or other powered craft] (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the seven assessment years immediately succeeding the initial assessment year :

Provided that in the case of an assessee, being a co-operative society, the provisions of this sub-section shall have effect as if for the words "seven assessment years", the words "nine assessment years" had been substituted :

[22][**Provided further** that in the case of an assessee carrying on the business of repairs to ocean-going vessels or other powered craft, the provisions of this sub-section shall have effect as if for the words "seven assessment years", the words "four assessment years" had been substituted:]

[23][**Provided also** that in the case of—

(*i*) an industrial undertaking which begins to manufacture or produce articles or things or to operate its cold storage plant or plants; or

(*ii*) a ship which is first brought into use; or

(*iii*) the business of a hotel which starts functioning,

on or after the 1st day of April, 1990 [24][but before the 1st day of April, 1991], provisions of this sub-section shall have effect as if for the words "seven assessment years", the words "nine assessment years" had been substituted :

Provided also that in the case of an assessee, being a co-operative society, deriving profits and gains from an industrial undertaking or a ship or a hotel referred to in the third proviso, the provisions of that proviso shall have effect as if for the words "nine assessment years", the words "eleven assessment years" had been substituted.]

(6) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an industrial undertaking or a ship or the business of a hotel [25][or the business of repairs to ocean-going vessels or other powered craft] to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under sub-section (1) for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such industrial undertaking or ship or the business of the hotel [25][or the business of repairs to ocean-going vessels or other powered craft] were the only source of income of the assessee during the previous years relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

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

22. Inserted, *ibid.*

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

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

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

(7) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form[26] duly signed and verified by such accountant.

(8) Where any goods held for the purposes of the business of the industrial undertaking or the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the [28][Assessing] Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] in the manner hereinbefore specified presents exceptional difficulties, the [28][Assessing] Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

(9) Where it appears to the [28][Assessing] Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel or the operation of the ship [27][or the business of repairs to ocean-going vessels or other powered craft] to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel or the operation of the ship

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26. *See* rule 18BBB and Form No. 10CCB for form of audit report.

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

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

[29][or the business of repairs to ocean-going vessels or other powered craft], the [30][Assessing] Officer shall, in computing the profits and gains of the industrial undertaking or the hotel or the ship [29][or the business of repairs to ocean-going vessels or other powered craft] for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(10) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.]

[31][**Deduction in respect of profits and gains from industrial undertakings, etc., in certain cases.**

[32]**80-IA.** (1) Where the gross total income of an assessee includes any profits and gains derived from any business of an industrial undertaking or a hotel or [33][operation of a ship or developing, maintaining and operating any infrastructure facility [34][or scientific and industrial research and development] [35][or providing telecommunication services whether basic or cellular] [36][*including radio paging, domestic satellite service or network of trunking and electronic data interchange services or construction and development of housing projects*] [37][or operating an industrial park or commercial production [36][*or refining*] of mineral oil in the North Eastern Region] [38][or in any part of India on or after the 1st day of April, 1997] (such business being hereinafter referred to as the eligible business)], to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to the percentage specified in sub-section (5) and for such number of assessment years as is specified in sub-section (6).

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

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

Provided that this condition shall not apply in respect of an industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such

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

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

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

32. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.
See also Circular No. 733, dated 3-1-1996. For details, *see* Taxmann's Master Guide to Income-tax Act.

33. Substituted for "operation of a ship (such business being hereinafter referred to as the eligible business)" by the Finance Act, 1995, w.e.f. 1-4-1996.

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

35. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1996.

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

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

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

industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

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

(*iii*) it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India:

Provided that the condition in this clause shall, in relation to a small scale industrial undertaking [39][or an industrial undertaking referred to in sub-clause (*b*) of clause (*iv*) which begins to manufacture or produce an article or thing during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, [40][2000]], apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted;

[41][(*iv*) (*a*) in the case of an industrial undertaking not specified in sub-clause (*b*) [42][or sub-clause (*c*)], it begins to manufacture or produce articles or things or to operate such plant or plants, at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(*b*) in the case of an industrial undertaking located in an industrially backward State specified in the Eighth Schedule or set up in any part of India for the generation, or generation and distribution, of power, it begins to manufacture or produce articles or things or to operate its cold storage plant or plants or to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, [40][2000]:]

[43][**Provided** that in the case of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power, the period ending shall have effect as if for the figures "1998", the figures [44][*2003*] had been substituted;]

[45][(*c*) in the case of an industrial undertaking located in such indus-

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

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

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

"(*iv*) it begins to manufacture or produce articles or things or to operate such plant or plants, at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;"

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

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

44. Substituted for "2000" by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**

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

trially backward district as the Central Government may, having regard to the prescribed guidelines, by notification[46] in the Official Gazette, specify in this behalf [47][as an industrially backward district of Category A or an industrially backward district of Category B and], it begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, [48][2000];]

[49][(*d*) in the case of an industrial undertaking being a small scale industrial undertaking, not specified in sub-clause (*b*) or in sub-clause (*c*), it begins to manufacture or produce articles or things or to operate its cold storage plant at any time during the period beginning on the 1st day of April, 1995 and ending on the 31st day of March, 2000;]

(*v*) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation 1.—For the purposes of clause (*ii*) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(3) This section applies to any ship, where all the following conditions are fulfilled, namely :—

(*i*) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

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46. *See* rule 11EA and Appendix III of the Income-tax Rules. *See* also Taxmann's Master Guide to Income-tax Act.

47. Inserted by the Income-tax (Amendment) Act, 1998, w.r.e.f. 1-4-1995.

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

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

(*ii*) it was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and

(*iii*) it is brought into use by the Indian company at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995.

[50](4) [51][This section applies to the business of any hotel—

(*a*) where conditions (*i*), (*ii*) and (*v*); and

(*b*) either of the conditions (*iii*) or (*iv*); or

(*c*) either of the conditions (*iiia*) or (*iva*),

are fulfilled, namely :—]

(*i*) the business of the hotel is not formed by the splitting up, or the

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50. *See* rule 18BBC(2)/(3) for conditions to be fulfilled for obtaining approval of prescribed authority.

For the purposes of section 80-IA(4)(*iii*) and first proviso to clause (*ii*) of sub-section (5) of section 80-IA, rule 18BBC(2) lays down following conditions to be fulfilled for obtaining approval of prescribed authority:

■ Hotel is situated in an area or place specified under clause (*iii*) of section 80-IA(4).

■ There are not more than 300 hotel rooms of 3 star category and above in the aggregate in areas or places specified under clause (*iii*) of section 80-IA(4) within the jurisdiction of the revenue sub-division in which hotel is located.

■ Where the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by Central Government under clause (*iii*) of section 80-IA(4) on the recommendation of the Department of Tourism.

Rule 18BBC(3) lays down the conditions to be fulfilled for obtaining approval of prescribed authority : For the purpose of clause (*iiia*) of sub-section (4) and the proviso of clause (*iia*) of sub-section (5) of section 80-IA, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely:—

■ Such hotel is located in an area or place specified under clause (*iiia*) of the said sub-section (4) of section 80-IA.

■ There are not more than 1,000 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (*iiia*) of sub-section (4) of section 80-IA within the jurisdiction of the revenue sub-division in which the hotel is located.

■ In case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (*iiia*) of sub-section (4) of section 80-IA on the recommendations of the Department of Tourism.

The prescribed authority under rule 18BBC(1) is :

(*a*) in relation to hotels located in an area or place referred to in clause (*iii*) or clause (*iiia*) of section 80-IA(4) : Director General (Income-tax Exemption) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;

(*b*) in relation to hotels located in any place referred to in clause (*iv*) or clause (*iva*) of section 80-IA(4) : Director General in the Directorate General of Tourism, Government of India.

51. Substituted for the portion beginning with the words "This section applies" and ending with the words "either of the conditions (*iii*) or (*iv*) are fulfilled, namely:—" by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to substitution, the quoted portion read as under :

"This section applies to the business of any hotel, where conditions (*i*), (*ii*), (*v*), and either of the conditions (*iii*) or (*iv*), are fulfilled, namely :—"

reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(*ii*) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(*iii*) the business of the hotel, located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may having regard to the need for development of infrastructure for tourism in any place and other relevant considerations specify for the purpose of this clause, starts functioning at any time during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1994;

[52][(*iiia*) the business of the hotel, located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant considerations, specify for the purpose of this clause, starts functioning at any time during the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001 :

Provided that nothing contained in this clause shall apply to any hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai;]

(*iv*) the business of the hotel—

(*1*) located in any place, or

(*2*) located in a place other than a place referred to in clause (*iii*) of this sub-section,

starts functioning at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995;

[52][(*iva*) the business of the hotel, located in a place other than a place referred to in clause (*iiia*) of this sub-section and not being located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai, starts functioning at any time during the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001;]

(*v*) the hotel is for the time being approved by the prescribed authority[53].

[54][(4A) This section applies to any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility which fulfils all the following conditions, namely :—

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

53. *See* footnote No. 50 on page 1.397, *ante*.

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

(*i*) the enterprise is owned by a company registered in India or by a consortium of such companies;

(*ii*) the enterprise has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing, maintaining and operating a new infrastructure facility subject to the condition that such infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body, as the case may be, within the period stipulated in the agreement;

(*iii*) the enterprise starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995.]

[55][(4B) This section applies to any company registered in India carrying on scientific and industrial research and development which fulfils all the following conditions, namely :—

(*i*) the company has the main object of scientific and industrial research and development;

(*ii*) the company is for the time being approved by the prescribed authority[56] at any time before the 1st day of April, [57][1999].]

[58][(4C) This section applies to any undertaking which starts providing telecommunication services whether basic or cellular [59][*including radio paging, domestic satellite service or network of trunking and electronic data interchange services*] at any time on or after the 1st day of April, 1995 but before the 31st day of March, 2000.]

[60][(4D) This section applies to any undertaking which begins to operate an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002.

(4E) This section applies to any undertaking which begins commercial production [61][*or refining*] of mineral oil in the North Eastern Region [62][or in any part of India on or after the 1st day of April, 1997]] :

[63][**Provided** *that the provisions of this section shall apply in case of refining of mineral oil where the undertaking begins refining on or after the 1st day of October, 1998.*]

[63][*(4F) This section applies to an undertaking, engaged in developing and building housing projects approved by a local authority subject to the condition that the size of the plot of land has a minimum area of one acre, and the residential unit has a built up area not exceeding one thousand square feet :*

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

56. *See* rules 18AAB/18BBD. Prescribed authority is Secretary, Department of Scientific & Industrial Research, Ministry of Science & Technology, Government of India.

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

58. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1996.

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

60. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998. *See* rule 18C.

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

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

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

Provided *that the undertaking commences development and construction of the housing project on or after the 1st day of October, 1998 and completes the same before the 31st day of March, 2001.*]

(5) The amount referred to in sub-section (1) shall be—

[64][(*i*) (*a*) in the case of an industrial undertaking referred to in sub-clause (*a*) [65][or sub-clause (*d*)] of clause (*iv*) of sub-section (2), twenty-five per cent of the profits and gains derived from such industrial undertakings;

(*b*) in the case of an industrial undertaking referred to in sub-clause (*b*) [66][or sub-clause (*c*)] of clause (*iv*) of sub-section (2), hundred per cent of the profits and gains derived from such industrial undertaking for the initial five assessment years and thereafter twenty-five per cent of the profits and gains derived from such industrial undertaking :

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent", the words "thirty per cent" had been substituted :]

[67][**Provided further** that in case of an industrial undertaking located in an industrially backward district of Category B, the provisions of this clause shall have effect as if for the words "five assessment years", the words "three assessment years" had been substituted;]

[68][(*ia*) in the case of an enterprise referred to in sub-section (4A), hundred per cent of the profits and gains derived from such business for the initial five assessment years and thereafter, thirty per cent of such profits and gains;]

[69][(*ib*) in the case of a company referred to in sub-section (4B), hundred per cent of the profits and gains derived from such business;]

[70][(*ic*) in the case of an undertaking referred to in sub-section (4C), hundred per cent of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent of the profits and gains derived from such business:

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent", the words "thirty per cent" had been substituted;]

[71][(*id*) in the case of an industrial park referred to in sub-section (4D), hundred per cent of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent of the profits and gains derived from such business :

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64. Substituted by the Finance Act, 1993, w.e.f. 1-4-1994.
65. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.
66. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.
67. Inserted by the Income-tax (Amendment) Act, 1998, w.r.e.f. 1-4-1995.
68. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.
69. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.
70. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1996.
71. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent", the words "thirty per cent" had been substituted;]

(*ii*) in the case of a hotel referred to in clause (*iii*) of sub-section (4), fifty per cent of the profits and gains derived from the business of such hotel:

Provided that the said hotel is approved by the prescribed authority for the purpose of this clause in accordance with the rules[72] made under this Act :

Provided further that the said hotel approved by the prescribed authority before the 31st day of March, 1992, shall be deemed to have been approved by the prescribed authority for the purposes of this section in relation to the assessment year commencing on the 1st day of April, 1991;

[73][(*iia*) in the case of a hotel referred to in clause (*iiia*) of sub-section (4), fifty per cent of the profits and gains derived from the business of such hotel :

Provided that the said hotel is approved by the prescribed authority[74] for the purposes of this clause in accordance with the rules made under this Act;]

(*iii*) in the case of a hotel referred to in clause (*iv*) [73][or clause (*iva*)] of sub-section (4), thirty per cent of the profits and gains derived from the business of such hotel;

(*iv*) in the case of a ship, thirty per cent of the profits and gains derived from such ship;

[73][(*v*) in the case of undertaking referred to in sub-section (4E) hundred per cent of profits and gains derived from such business for the initial seven assessment years.]

[75][(vi) *in the case of a housing project referred to in sub-section (4F), hundred per cent of profits and gains derived from such business.*]

(6) The number of assessment years referred to in sub-section (1) shall, including the initial assessment year, be—

(*i*) twelve in the case of an assessee, being a co-operative society, deriving profits and gains from an industrial undertaking;

[76][(*ii*) ten in the case of an assessee, not being a co-operative society, deriving profits and gains from an industrial undertaking specified in sub-clause (*a*) or sub-clause (*b*) or sub-clause (*d*) of clause (*iv*) of sub-section (2) or located in an industrially backward district of Category A specified in sub-clause (*c*) of clause (*iv*) of that sub-section;

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72. Rule 18BBC(2) lays down the prescribed authority/conditions to be fulfilled for obtaining approval of prescribed authority. *See* footnote 50 on page 1.397, *ante*.

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

74. *See* footnote No. 50 on page 1.397, *ante*.

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

76. Substituted for clause (*ii*) by the Income-tax (Amendment) Act, 1998, w.r.e.f. 1-4-1995. Prior to its substitution, clause (*ii*) read as under :

"(*ii*) ten in the case of any other assessee deriving profits and gains from an industrial undertaking;"

(*iia*) eight in the case of an assessee deriving profits and gains from an industrial undertaking located in an industrially backward district of Category B specified in sub-clause (*c*) of clause (*iv*) of sub-section (2) and such an undertaking is not covered under clauses (*i*) and (*ii*) of this sub-section;]

(*iii*) ten in the case of any other assessee deriving profits and gains, from a ship or the business of a hotel;

[77][(*iv*) any ten consecutive assessment years falling within a period of twelve assessment years beginning with the assessment year in which an assessee begins operating and maintaining infrastructure facility :]

[78][**Provided** that where the assessee begins operating and maintaining any infrastructure facility referred to in sub-clause (*ii*) of clause (*ca*) of sub-section (12), the provisions of this clause shall have effect as if for the word "twelve", the word "twenty" had been substituted;]

[79][(*v*) five in the case of an assessee, being a company referred to in sub-section (4B), deriving profits and gains from scientific and industrial research and development;]

[80][(*vi*) ten in the case of an assessee, being an undertaking referred to in sub-section (4C), deriving profits and gains from telecommunication services whether basic or cellular [81][*including radio paging and domestic satellite service*];]

[82][(*vii*) ten in the case of an assessee, being an undertaking referred to in sub-section (4D), deriving profits and gains from operating an industrial park.;

(*viii*) seven in the case of an assessee being an undertaking referred to in sub-section (4E) deriving profits and gains from commercial production [83][*or refining*] of mineral oil in the North Eastern Region [84][and other parts of the country on or after the 1st day of April, 1997]].

(7) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under sub-section (5) for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

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77. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.
78. Inserted by the Income-tax (Amendment) Act, 1998, w.e.f. 1-4-1998.
79. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.
80. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1996.
81. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**
82. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.
83. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**
84. Inserted by the Income-tax (Amendment) Act, 1998, w.e.f. 1-4-1998.

[85][(7A) Notwithstanding anything contained in sub-section (4A), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed[86], such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.]

(8) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form[87] duly signed and verified by such accountant.

(9) Where any goods held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the eligible business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

[88][*(9A) Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading* "C.—Deductions in respect of certain incomes", *and shall in no case exceed the profits and gains of the undertaking or hotel, as the case may be.*]

(10) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business

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85. Inserted by the Income-tax (Amendment) Act, 1998, w.e.f. 1-4-1998**.**

86. *See* rule 18BBE and Form No. 10CCC.

87. *See* rule 18BBB and Form No. 10CCB for form of audit report.

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

between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(11) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertaking with effect from such date as it may specify in the notification.

(12) For the purposes of this section,—

[89][(a) *"domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service;*]

[90][(*aa*)] "hilly area" means any area located at a height of one thousand metres or more above the sea level;

(*b*) "industrial undertaking" shall have the meaning assigned to it in the *Explanation* to section 33B;

[91][(*c*) "initial assessment year"—

(*1*) in the case of an industrial undertaking or cold storage plant or ship or hotel, means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning;

(*2*) in the case of an enterprise, carrying on the business of developing, operating and maintaining any infrastructure facility, means the assessment year specified by the assessee at his option to be the initial year, not falling beyond the twelfth assessment year starting from the previous year in which the enterprise begins operating and maintaining the infrastructure facility;

[92][(*3*) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (4B);]

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

90. Clause (*a*) renumbered as clause (*aa*), *ibid.*

91. Clauses (*c*) and (*ca*) substituted for clause (*c*) by the Finance Act, 1995, w.e.f. 1-4-1996. Prior to its substitution, clause (*c*) read as under:

'(*c*) "initial assessment year" means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning;'

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

[93][(*4*) in the case of an undertaking referred to in sub-section (4C) means the assessment year relevant to the previous year in which the undertaking starts to provide the telecommunication services whether basic or cellular [94][*including radio paging and domestic satellite service*];]

[95][(*5*) in the case of an undertaking operating an industrial park referred to in sub-section (4D) means the assessment year relevant to the previous year in which the undertaking starts operating such industrial park notified for the purposes of the said sub-section;

(*6*) in the case of an undertaking engaged in the business of commercial production [94][*or refining*] of mineral oil referred to in sub-section (4E) means the assessment year relevant to the previous year in which the undertaking commences the commercial production of mineral oil;]

[96][(*ca*) "infrastructure facility" means—

(*i*) a road, bridge, airport, port, [97][*inland waterways and inland ports*,] rail system or any other public facility of a similar nature as may be notified[98] by the Board in this behalf in the Official Gazette;

(*ii*) a highway project including housing or other activities being an integral part of the highway project; and

(*iii*) a water supply project, irrigation project, sanitation and sewarage system;]

(*d*) "place of pilgrimage" means a place where any temple, mosque, gurdwara, church or other place of public worship of renown throughout any State or States is situated;

(*e*) "rural area" means any area other than—

(*i*) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation,

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93. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1996.

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

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

96. Substituted by the Income-tax (Amendment) Act, 1998, w.e.f. 1-4-1998**.** Prior to its substitution, clause (*ca*), as substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997, read as under :

'(*ca*) "infrastructure facility" means—

(*i*) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(*ii*) a water supply project, irrigation project, sanitation and sewerage system;'

Earlier clause (*ca*) was inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

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

98. For notified infrastructure facility, *see* Taxmann's Master Guide to Income-tax Act.

notified area committee, town area committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the preceding census of which relevant figures have been published before the first day of the previous year; or

(*ii*) an area within such distance not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (*i*), as the Central Government may, having regard to the stage of development of such area (including the extent of, and scope for, urbanisation of such area) and other relevant considerations specify in this behalf by notification in the Official Gazette;

[99][(*f*) "small-scale industrial undertaking" means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B[1] of the Industries (Development and Regulation) Act, 1951 (65 of 1951);]

[2][(*g*) "North Eastern Region" means the region comprising of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.]

The following sections 80-IA and 80-IB shall be substituted for the existing section 80-IA by the Finance Act, 1999, w.e.f. 1-4-2000 :

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

80-IA. *(1) Where the gross total income of an assessee includes any profits and gains derived from any business of an industrial undertaking or an enterprise referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to hundred per cent of profits and gains derived from such business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, twenty-five per cent of the profits and gains for further five assessment years :*

Provided *that where the assessee is a company, the provisions of this sub-section shall have effect as if for the words "twenty-five per cent", the words "thirty per cent" had been substituted.*

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication

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

1. For the text of section 11B of the Industries (Development & Regulation) Act, 1951 and notification issued thereunder, *see* **Appendix One.**

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

service or develops an industrial park or generates power or commences transmission or distribution of power :

Provided *that where the assessee begins operating and maintaining any infrastructure facility referred to in clause (*b*) of* Explanation *to clause (*i*) of sub-section (4), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.*

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

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

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

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

Explanation 1.—*For the purposes of clause (*ii*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—*

*(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;*

*(*b*) such machinery or plant is imported into India from any country outside India; and*

*(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the assessee.*

Explanation 2.—*Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.*

(4) This section applies to—

*(*i*) any enterprise carrying on the business of (*i*) developing, (*ii*) maintaining and operating or (*iii*) developing, maintaining and operating any infrastructure facility which fulfils all the following conditions, namely :—*

*(*a*) it is owned by a company registered in India or by a consortium of such companies;*

(b) *it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (*i*) developing, (*ii*) maintaining and operating or (*iii*) developing, maintaining and operating a new infrastructure facility subject to the condition that such infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body, as the case may be, within the period stipulated in the agreement;*

(c) *it has started or starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995:*

Provided *that where an infrastructure facility is transferred on or after the 1st day of April, 1999 by an enterprise which developed such infrastructure facility (hereafter referred to in this section as the transferor enterprise) to another enterprise (hereafter in this section referred to as the transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, the provisions of this section shall apply to the transferee enterprise as if it were the enterprise to which this clause applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not taken place.*

Explanation.—*For the purposes of this clause, "infrastructure facility" means,—*

(a) *a road, bridge, airport, port, inland waterways and inland ports, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;*

(b) *a highway project including housing or other activities being an integral part of the highway project; and*

(c) *a water supply project, irrigation project, sanitation and sewerage system;*

(ii) *any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service or network of trunking and electronic data interchange services at any time on or after the 1st day of April, 1995, but before the 31st day of March, 2000.*

Explanation.—*For the purposes of this clause, "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service;*

(iii) *any undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government*

for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002:

Provided *that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 and transfers the operation and maintenance of such industrial park to another undertaking (hereafter in this section referred to as the transferee undertaking) the deduction under sub-section (*1*), shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years in a manner as if the operation and maintenance were not so transferred to the transferee undertaking;*

*(*iv*) an industrial undertaking which,—*

*(*a*) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2003;*

*(*b*) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2003 :*

Provided *that the deduction under this section to an industrial undertaking under sub-clause (*b*) shall be allowed only in relation to the profits derived from laying of such network of new lines for transmission or distribution.*

(5) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(6) Notwithstanding anything contained in sub-section (4), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which such transfer to reserve account took place.

*(7) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (*1*) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the* Explanation *below sub-section (*2*) of section 288, and the assessee furnishes,*

along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(8) Where any goods held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the eligible business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date :

Provided *that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.*

Explanation.—*For the purposes of this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.*

(9) Where any amount of profits and gains of an industrial undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", *and shall in no case exceed the profits and gains of such eligible business of industrial undertaking or enterprise, as the case may be.*

(10) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(11) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) *no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and*

(b) *the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.*

Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

80-IB. *(1) Where the gross total income of an assessee includes any profits and gains derived from any business referred to in sub-sections (3) to (11) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as specified in this section.*

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

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

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

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

(iii) *it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India :*

Provided *that the condition in this clause shall, in relation to a small scale industrial undertaking or an industrial undertaking referred to in sub-section (4) shall apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.*

Explanation 1.—*For the purposes of clause (ii), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—*

(a) *such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;*

(b) *such machinery or plant is imported into India from any country outside India; and*

(c) *no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.*

Explanation 2.—*Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with;*

(iv) *in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.*

(3) The amount of deduction in the case of an industrial undertaking shall be twenty-five per cent (or thirty per cent where the assessee is a company), of the profits and gains derived from such industrial undertaking for a period of ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) beginning with the initial assessment year subject to the fulfilment of the following conditions, namely:—

(i) *it begins to manufacture or produce, articles or things or to operate such plant or plants at any time during the period beginning from the 1st day of April, 1991 and ending on the 31st day of March, 1995 or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular undertaking;*

(ii) *where it is an industrial undertaking being a small scale industrial undertaking, it begins to manufacture or produce articles or things or to operate its cold storage plant [not specified in sub-section (4) or sub-section (5)] at any time during the period beginning on the 1st day of April, 1995 and ending on the 31st day of March, 2000.*

(4) The amount of deduction in the case of an industrial undertaking in an industrially backward State specified in the Eighth Schedule shall be hundred per cent of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from such industrial undertaking :

Provided *that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) subject to fulfilment of the condition that it begins to manufacture or produce articles or things or to operate its cold storage plant or plants during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2000:*

Provided further *that in the case of such industries in the North-Eastern Region, as may be notified by the Central Government, the amount of deduction shall be hundred per cent of profits and gains for a period of ten assessment years, and the total period of deduction shall in such a case not exceed ten assessment years.*

(5) The amount of deduction in the case of an industrial undertaking located in such industrially backward districts as the Central Government may, having

regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf as industrially backward district of category 'A' or an industrially backward district of category 'B' shall be,—

*(*i) *hundred per cent of the profits and gains derived from an industrial undertaking located in a backward district of category 'A' for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains of an industrial undertaking:*

Provided *that the total period of deduction shall not exceed ten consecutive assessment years or where the assessee is a co-operative society, twelve consecutive assessment years:*

Provided further *that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2000;*

*(*ii) *hundred per cent of the profits and gains derived from an industrial undertaking located in a backward district of category 'B' for three assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains of an industrial undertaking :*

Provided *that the total period of deduction does not exceed eight consecutive assessment years (or where the assessee is a co-operative society, twelve consecutive assessment years) :*

Provided further *that the industrial undertaking begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 2000.*

(6) The amount of deduction in the case of the business of a ship shall be thirty per cent of the profits and gains derived from such ship for a period of ten consecutive assessment years including the initial assessment year provided that the ship—

*(*i) *is owned by an Indian company and is wholly used for the purposes of the business carried on by it;*

*(*ii) *was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and*

*(*iii) *is brought into use by the Indian company at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995.*

(7) The amount of deduction in the case of any hotel shall be—

*(*a) *fifty per cent of the profits and gains derived from the business of such hotel for a period of ten consecutive years beginning from the initial assessment year as is located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for*

tourism in any place and other relevant considerations, specify by notification in the Official Gazette and such hotel starts functioning at any time during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1994 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided *that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001:*

Provided further *that the said hotel is approved by the prescribed authority for the purpose of this clause in accordance with the rules made under this Act and where the said hotel is approved by the prescribed authority before the 31st day of March, 1992, shall be deemed to have been approved by the prescribed authority for the purpose of this section in relation to the assessment year commencing on the 1st day of April, 1991;*

(b) *thirty per cent of the profits and gains derived from the business of such hotel as is located in any place other than those mentioned in sub-clause* (a) *for a period of ten consecutive years beginning from the initial assessment year if such hotel has started or starts functioning at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995 or beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:*

Provided *that nothing contained in this clause shall apply to a hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi or Mumbai, which has started or starts functioning on or after the 1st day of April, 1997 and before the 31st day of March, 2001;*

(c) *the deduction under clause* (a) *or clause* (b) *shall be available only if—*

(i) *the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;*

(ii) *the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;*

(iii) *the hotel is for the time being approved by the prescribed authority:*

Provided *that any hotel approved by the prescribed authority before the 1st day of April, 1999 shall be deemed to have been approved under this sub-section.*

(8) The amount of deduction in the case of any company carrying on scientific research and development shall be hundred per cent of the profits and gains of such business for a period of five assessment years beginning from the initial assessment year if such company—

(a) is registered in India;

(b) has the main object of scientific and industrial research and development;

(c) is for the time being approved by the prescribed authority at any time before the 1st day of April, 1999.

(9) The amount of deduction to an undertaking which begins commercial production or refining of mineral oil shall be hundred per cent of the profits for a period of seven consecutive assessment years including the initial assessment year:

Provided *that where the undertaking is located in North-Eastern Region, it has begun or begins commercial production of mineral oil before the 1st day of April, 1997 and where it is located in any part of India, it begins commercial production of mineral oil on or after the 1st day of April, 1997:*

Provided further *that where the undertaking is engaged in refining of mineral oil, it begins refining on or after the 1st day of October, 1998.*

(10) The amount of profits in case of an undertaking developing and building housing projects approved by a local authority, shall be hundred per cent of the profits derived in any previous year relevant to any assessment year from such housing project if,—

(a) such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes the same before the 31st day of March, 2001;

(b) the project is on the size of a plot of land which has a minimum area of one acre; and

(c) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the cities of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place.

(11) Notwithstanding anything contained in clause (iii) of sub-section (2) and sub-sections (3), (4) and (5), the amount of deduction in a case of industrial undertaking deriving profit from the business of setting up and operating a cold chain facility for agricultural produce, shall be hundred per cent of the profits and gains derived from such industrial undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from the operation of such facility in a manner that the total period of deduction does not exceed ten consecutive assessment years (or twelve consecutive assessment years where the assessee is a co-operative society) and subject to fulfilment of the condition that it begins to operate such facility on or after the 1st day of April, 1999 but before the 31st day of March, 2003.

(12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(13) The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

(14) For the purposes of this section,—

(a) "cold chain facility" means a chain of facilities for storage or transportation of agricultural produce under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(b) "hilly area" means any area located at a height of one thousand metres or more above the sea level;

(c) "initial assessment year"—

(i) in the case of an industrial undertaking or cold storage plant or ship or hotel, means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the cold chain facility or the ship is first brought into use or the business of the hotel starts functioning;

(ii) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (8);

(iii) in the case of an undertaking engaged in the business of commercial production or refining of mineral oil referred to in sub-section (9), means the assessment year relevant to the previous year in which the undertaking commences the commercial production or refining of mineral oil;

(d) "North-Eastern Region" means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(e) "place of pilgrimage" means a place where any temple, mosque, gurdwara, church or other place of public worship of renown throughout any State or States is situated;

(f) "rural area" means any area other than—

(i) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation,

notified area committee, town area committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the preceding census of which relevant figures have been published before the first day of the previous year; or

*(*ii*) an area within such distance not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (*i*), as the Central Government may, having regard to the stage of development of such area including the extent of, and scope for, urbanisation of such area and other relevant considerations specify in this behalf by notification in the Official Gazette;*

(g) "small-scale industrial undertaking" means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Deduction in respect of profits and gains from newly established industrial undertakings or ships or hotel business in certain cases.

80J. [3][*Omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1989.*]

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3. Prior to its omission, section 80J, as inserted in place of section 84 (which was omitted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968), and later amended by the Finance Act, 1969, w.e.f. 1-4-1969, Finance Act, 1972, w.e.f. 1-4-1973, Finance Act, 1973, w.e.f. 1-4-1974, Direct Taxes (Amendment) Act, 1974, w.e.f. 1-4-1974, Finance Act, 1975, w.e.f. 1-4-1975/ 1-4-1976, Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, Finance (No. 2) Act, 1977, w.e.f. 1-4-1978, Finance Act, 1979, w.e.f. 1-4-1979, Finance (No. 2) Act, 1980, w.r.e.f. 1-4-1972, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and Finance Act, 1988, w.e.f. 1-4-1988, read as under :

'80J. *Deduction in respect of profits and gains from newly established industrial undertak-ings or ships or hotel business in certain cases.*—(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking or a ship or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains (reduced by the deduction, if any, admissible to the assessee under section 80HH or section 80HHA) of so much of the amount thereof as does not exceed the amount calculated at the rate of six per cent per annum on the capital employed in the industrial undertaking or ship or business of the hotel, as the case may be, computed in the manner specified in sub-section (1A) in respect of the previous year relevant to the assessment year (the amount calculated as aforesaid being hereafter, in this section, referred to as the relevant amount of capital employed during the previous year):

Provided that in relation to the profits and gains derived by an assessee, being a company, from an industrial undertaking which begins to manufacture or produce articles or to operate its cold storage plant or plants after the 31st day of March, 1976, or from a ship which is first brought into use after that date, or from the business of a hotel which starts functioning after that date, the provisions of this sub-section shall have effect as if for the words "six per cent", the words "seven and a half per cent" had been substituted.

(Contd. on p. 1.418)

(Contd. from p. 1.417)

(1A) (*I*) For the purposes of this section, the capital employed in an industrial undertaking or the business of a hotel shall, except as otherwise expressly provided in this section, be computed in accordance with clauses (*II*) to (*IV*) and the capital employed in a ship shall be computed in accordance with clause (*V*).

(*II*) The aggregate of the amounts representing the values of the assets as on the first day of the computation period of the undertaking or of the business of the hotel to which this section applies shall first be ascertained in the following manner :—

(*i*) in the case of assets entitled to depreciation, their written down value;

(*ii*) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee;

(*iii*) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business;

(*iv*) in the case of assets, being debts due to the person carrying on the business, the nominal amount of those debts;

(*v*) in the case of assets, being cash in hand or bank, the amount thereof.

Explanation 1.—In this clause, "actual cost" has the same meaning as in clause (*1*) of section 43.

Explanation 2.—In this clause and in clause (*III*), "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A.

Explanation 3.—In this clause and in clause (*V*), "written down value" has the same meaning as in clause (*6*) of section 43.

Explanation 4.—Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset.

(*III*) From the aggregate of the amounts as ascertained under clause (*II*) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax).

Explanation.—For the purposes of this clause,—

(*i*) "tax" means—

(*a*) income-tax or super-tax (including advance tax) due under any provision of this Act;

(*b*) wealth-tax due under any provision of the Wealth-tax Act, 1957 (27 of 1957);

(*c*) gift-tax due under any provision of the Gift-tax Act, 1958 (18 of 1958);

(*d*) super profits tax due under any provision of the Super Profits Tax Act, 1963 (14 of 1963);

(*e*) surtax due under any provision of the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(*ii*) any liability in respect of tax shall be deemed to have become due—

(*a*) in the case of advance tax due under any provision of this Act, on the date on which such advance tax is payable; and

(*b*) in the case of any other tax, on the first day of the period within which it is required to be paid.

(*IV*) The resultant sum as determined under clause (*III*) shall be diminished by the value, as ascertained under clause (*II*), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under clause (*III*) are required to be deducted in computing the capital.

(Contd. on p. 1.419)

(Contd. from p. 1.418)

(*V*) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship.

Explanation.—In this clause, "computation date" in relation to a ship, means—

(*a*) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use;

(*b*) in respect of any subsequent previous year, the first day of such previous year.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning (such assessment year being hereafter, in this section, referred to as the initial assessment year) and each of the four assessment years immediately succeeding the initial assessment year:

Provided that in the case of an assessee, being a co-operative society, the provisions of this sub-section shall have effect as if for the words "four assessment years", the words "six assessment years" had been substituted.

(3) Where the amount of the profits and gains derived from the industrial undertaking or ship or business of the hotel, as the case may be, included in the total income (as computed without applying the provisions of section 64 and before making any deduction under Chapter VI-A) in respect of the previous year relevant to an assessment year commencing on or after the 1st day of April, 1967 (not being an assessment year prior to the initial assessment year or subsequent to the fourth assessment year as reckoned from the end of the initial assessment year) falls short of the relevant amount of capital employed during the previous year, the amount of such shortfall, or, where there are no such profits and gains, an amount equal to the relevant amount of capital employed during the previous year (such amount, in either case, being hereafter, in this section, referred to as deficiency) shall be carried forward and set off against the profits and gains referred to in sub-section (1) [as computed after allowing the deductions, if any, admissible under section 80HH or section 80HHA and the said sub-section (1)] in respect of the previous year relevant to the next following assessment year and, if there are no such profits and gains for that assessment year, or where the deficiency exceeds such profits and gains, the whole or balance of the deficiency, as the case may be, shall be set off against such profits and gains for the next following assessment year and if and so far as such deficiency cannot be wholly so set off, it shall be set off against such profits and gains assessable for the next following assessment year and so on :

Provided that—

(*i*) in no case shall the deficiency or any part thereof be carried forward beyond the seventh assessment year as reckoned from the end of the initial assessment year;

(*ii*) where there is more than one deficiency and each such deficiency relates to a different assessment year, the deficiency which relates to an earlier assessment year shall be set off under this sub-section before setting off the deficiency in relation to a later assessment year:

Provided further that in the case of an assessee being a co-operative society, the provisions of this sub-section shall have effect as if for the words "fourth assessment year", the words "sixth assessment year" had been substituted.

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

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

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

(Contd. on p. 1.420)

(Contd. from p. 1.419)

(*iii*) it manufactures or produces articles, or operates one or more cold storage plant or plants, in any part of India, and has begun or begins to manufacture or produce articles or to operate such plant or plants, at any time within the period of thirty-three years next following the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(*iv*) in a case where the industrial undertaking manufactures or produces articles, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power:

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

Provided further that, where any building or any part thereof previously used for any purpose is transferred to the business of the industrial undertaking, the value of the building or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking:

Provided also that in the case of an industrial undertaking which manufactures or produces any article specified in the list in the Eleventh Schedule, the provisions of clause (*iii*) shall have effect as if for the words "thirty-three years", the words "thirty-one years" had been substituted.

Explanation 1.—For the purposes of clause (*ii*) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(*a*) such machinery or plant was not, at any time, previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with and the total value of machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking.]

(5) This section applies to any ship, where all the following conditions are fulfilled, namely:—

(*i*) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(*ii*) it was not, previous to the date of its acquisition by the Indian company, owned and used in Indian territorial waters by a person resident in India; and

(*iii*) it is brought into use by the Indian company at any time within a period of thirty-three years next following the 1st day of April, 1948.

(6) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely:—

(Contd. on p. 1.421)

(Contd. from p. 1.420)

(*a*) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(*b*) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(*c*) [***];

(*d*) the hotel is for the time being approved for the purposes of this sub-section by the Central Government;

(*e*) the business of the hotel starts functioning on or after the 1st day of April, 1961, but before the 1st day of April, 1981.

Explanation.—Where in the case of the business of a hotel, any building, or any part thereof, previously used as a hotel, or any machinery or plant, or any part thereof, previously used for any purpose, is transferred to a new business and the total value of the building, machinery or plant or part so transferred does not exceed twenty per cent of the total value of the building, machinery or plant used in the business, then, for the purposes of clause (*a*) of this sub-section, the condition specified therein shall be deemed to have been complied with and the total value of the building, machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the business of the hotel.

(6A) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(6B) Where any goods held for the purposes of the business of the industrial undertaking or the hotel or the operation of the ship are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel or the operation of the ship and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel or the operation of the ship does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

(6C) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel or the operation of the ship to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel or the operation of the ship, the Assessing Officer shall, in computing the profits and gains of the industrial undertaking or the hotel or the ship for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(Contd. on p. 1.422)

Deduction in respect of profits and gains from business of poultry farming.

80JJ. [4][*Omitted by the Finance Act, 1997, w.e.f. 1-4-1998.*]

[5][**Deduction in respect of profit and gains from business of collecting and processing of bio-degradable waste.**

80JJA. *Where the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for generating power* [5a]**[***, producing bio-gas,***]** *making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee,* [5b]**[***a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less***].**]

(Contd. from p. 1.421)

(7) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.'

4. Prior to its omission, section 80JJ, as inserted by the Finance Act, 1989, w.e.f.1-4-1990, read as under :

"80JJ. *Deduction in respect of profits and gains from business of poultry farming.*— Where the gross total income of an assessee includes any profits and gains derived from business of poultry farming, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to thirty-three and one-third per cent thereof."

Earlier section 80JJ, was inserted by the Finance Act, 1975, w.e.f. 1-4-1976, amended by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981 and the Finance Act, 1983, w.e.f. 1-4-1984 and omitted by the Finance Act, 1985, w.e.f. 1-4-1986.

5. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.** Earlier section 80JJA was inserted by the Finance Act, 1979, w.e.f. 1-4-1980 and later on omitted by the Finance Act, 1983, w.e.f. 1-4-1984.

5a. Words "or producing bio-fertilizers, bio-pesticides or other biological agents or for producing bio-gas or" shall be substituted for ", producing bio-gas," by the Finance Act, 1999, w.e.f. **1-4-2000.**

5b. Words "a deduction of an amount equal to the whole of such profits and gains for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which such business commences" shall be substituted for "a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less", *ibid.*

[6][**Deduction in respect of employment of new workmen.**

80JJAA. *(1) Where the gross total income of an assessee, being an Indian company, includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in the previous year for three assessment years including the assessment year relevant to the previous year in which such employment is provided.*

(2) No deduction under sub-section (1) shall be allowed—

(a) *if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking;*

(b) *unless the assessee furnishes along with the return of income the report of the accountant, as defined in the* Explanation *below sub-section (2) of section 288 giving such particulars in the report as may be prescribed*[6a].

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

(i) *"additional wages" means the wages paid to the new regular workman in excess of one hundred workmen employed during the previous year :*

Provided *that in the case of an existing undertaking, the additional wages shall be* nil *if the increase in the number of regular workman employed during the year is less than ten per cent of existing number of workmen employed in such undertaking as on the last day of the preceding year;*

(ii) *"regular workman", does not include—*

(a) *a casual workman; or*

(b) *a workman employed through contract labour; or*

(c) *any other workman employed for a period of less than three hundred days during the previous year;*

(iii) *"workman" shall have the meaning assigned to it in clause (s) of section 2*[7] *of the Industrial Disputes Act, 1947 (14 of 1947).*]

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

6a. See rule 19AB and Form No. 10DA for form of report.

7. For text of clause (*s*) of section 2 of the Industrial Disputes Act, 1947, defining "workman", *see* **Appendix One.**

Deduction in respect of dividends attributable to profits and gains from new industrial undertakings or ships or hotel business.

[8]**80K.** [*Omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Original section was inserted, in place of section 85 which was deleted, by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.*]

[9]**Deductions in respect of interest on certain securities, dividends*, etc.**

[10]**80L.** (1) [11][Where the gross total income of an assessee, being—

(*a*) an individual, or

(*b*) a Hindu undivided family, [12][***]

(*c*) [13][***]

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8. Omitted section 80K was originally inserted from 1-4-1968 by the Finance (No. 2) Act, 1967, and amended from the same date. The section, as substituted by the Taxation Laws (Amendment) Act, 1970, with retrospective effect from 1-4-1968 and amended by the Finance Act, 1975, w.e.f. 1-4-1975, stood as follows :

"80K. *Deduction in respect of dividends attributable to profits and gains from new industrial undertakings or ships or hotel business.*—Where the gross total income of an assessee, being—

(*a*) the owner of any share or shares in a company, or

(*b*) a person who is chargeable to tax under this Act on the income by way of dividends on any share or shares in a company owned by any other person,

includes any income by way of dividends paid or deemed to have been paid by the company in respect of such share or shares, there shall, subject to any rules that may be made by the Board in this behalf, be allowed, in computing his total income, a deduction from such income by way of dividends of an amount equal to such part thereof as is attributable to the profits and gains derived by the company from an industrial undertaking or ship or the business of a hotel, on which no tax is payable by the company under this Act for any assessment year commencing prior to the 1st day of April, 1968, or in respect of which the company is entitled to a deduction under section 80J for the assessment year commencing on the 1st day of April, 1968, or for any subsequent assessment year:

Provided that no deduction under this section shall be allowed in respect of any income by way of dividends which is attributable to the profits and gains derived by the company from an industrial undertaking which begins to manufacture or produce articles or to operate its cold storage plant or plants after the 31st day of March, 1976, or from a ship which is first brought into use after that date or from the business of a hotel which starts functioning after that date."

9. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971. Original section was inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968 and was later on substituted by the Finance Act, 1968, w.e.f. 1-4-1969.

10. *See* also Press Note, dated 30-3-1982, issued by Press Information Bureau, Circular No. 243, dated 22-6-1978, Circular No. 406, dated 15-1-1985, Circular No. 64, dated 25-8-1971 and Circular No. 687, dated 19-8-1994. For details and for relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

11. Substituted for "Where the gross total income of an assessee includes any income by way of—" by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

12. Word "or" omitted by the Finance Act, 1994, w.r.e.f. 1-4-1968.

13. Omitted, *ibid*. Prior to its omission, clause (*c*), as amended by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1972, read as under:

"(*c*) an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,"

*Word "dividends" should be omitted in view of omission of clause (*iv*) by the Finance Act, 1997, w.e.f. 1-4-1998.

includes any income by way of—]

(*i*) interest on any security of the Central Government or a State Government [14][***];

[15][(*ia*) interest on National Savings Certificates (VI Issue) or National Savings Certificates (VII Issue) or National Savings Certificates (VIII Issue) issued under the Government Savings Certificates Act, 1959 (46 of 1959);]

[16][(*ii*) interest on such debentures, issued by any institution or authority or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification[17] in the Official Gazette, specify in this behalf;

[18][***]]

[19][(*iia*) interest on deposits under such National Deposit Scheme as may be framed by the Central Government and notified by it in this behalf in the Official Gazette;]

(*iii*) interest on deposits under any [20][other] scheme framed by the Central Government and notified[21] by it in this behalf in the Official Gazette;

[22][(*iiia*) interest on deposits under the Post Office (Monthly Income Account) Rules, 1987;]

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14. "(not being interest payable under section 280D in respect of any annuity deposit made under Chapter XXII-A)" omitted by the Finance Act, 1988, w.e.f. 1-4-1988.

15. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to substitution sub-clause (*ia*), as inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.r.e.f. 1-4-1984, read as under :

"(*ia*) interest on National Savings Certificates (VI Issue) and National Savings Certificates (VII Issue) issued under the Government Savings Certificates Act, 1959 (46 of 1959);"

16. Substituted by the Finance Act, 1986, w.e.f. 1-4-1987.

17. For complete list of notified debentures, bonds or institutions, *see* Taxmann's Master Guide to Income-tax Act.

18. *Explanation* omitted by the Finance Act, 1987, w.e.f. 1-4-1987. Omitted *Explanation*, which was part of clause (*ii*), as substituted by the Finance Act, 1986, w.e.f. 1-4-1987, read as under:

'*Explanation*.—For the purposes of this clause, "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);'

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

For National Deposits Scheme, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1381-1.1391. It has since been discontinued on and from 1-4-1987 *vide* Notification No. F. 4(13) W & M/87, dated 31-3-1987. *See* Taxmann's Master Guide to Income-tax Act.

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

21. For other notified schemes, *see* Taxmann's Master Guide to Income-tax Act.

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

(*iv*) [23][* * *]

[23a]**[**(v) *income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);*

[24][(va) *income received in respect of units of a Mutual Fund specified under clause (*23D*) of section 10;*]**]**

(*vi*) interest on deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); [25][***]

[26][(*via*) interest on deposits with any such bank, not being a banking company or a co-operative society referred to in clause (*vi*) but being a bank established by or under any law made by Parliament, as may be approved by the Central Government for the purposes of this clause;]

[27][(*vii*) interest on deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India [28][***]:

Provided that the corporation [29][***] is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (1) of section 36;]

[30][(*viia*) interest on deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;]

[31][(*viii*) interest on deposits with a co-operative society, not being a co-operative society referred to in clause (*vi*), made by a member of the society; [32][or]

[33][(*ix*) dividends from any co-operative society;]

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23. Clause (*iv*) omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to its omission, clause (*iv*) read as under :

"(*iv*) dividends from any Indian company;"

23a. Clauses (*v*) and (*va*) shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000.**

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

25. "or" omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

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

For the banks notified under this clause, *see* Taxmann's Master Guide to Income-tax Act.

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

28. "or with a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes" omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

29. "or, as the case may be, the company" omitted, *ibid.*

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

31. Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

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

33. Inserted, *ibid.*

[34][(*x*) interest on deposits with [35][* * *] any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes:

[35a]**[Provided** *that the company is for the time being approved by the Central Government for the purpose of clause (*viii*) of sub-section (1) of section 36,*]**]**

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction as specified hereunder, namely :—

[36][(*1*)] in a case where the amount of such income does not exceed in the aggregate [37][twelve] thousand rupees, the whole of such amount; and

[36][(*2*)] in any other case, [37][twelve] thousand rupees :

[38][**Provided** that where any income referred to in [39][clause (*i*)] [39a]**[**, *clause (*v*) or clause (*va*)***]*** remains unallowed after the deduction under the foregoing provision of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed three thousand rupees.]

[40][***]

[41][***]

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

35. Words ",or dividend received from," omitted by the Finance Act, 1997, w.e.f. 1-4-1998.

35a. Proviso to clause (*x*) shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000.**

36. Substituted for "(*a*)" and "(*b*)", respectively, by the Finance Act, 1982, w.e.f. 1-4-1983.

37. Substituted for "thirteen" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Earlier "thirteen" was substituted for "ten" by the Finance Act, 1995, w.e.f. 1-4-1996, "ten" was substituted for "seven" by the Finance Act, 1993, w.e.f. 1-4-1994, "seven" was substituted for "four" by the Finance Act, 1983, w.e.f. 1-4-1984 and "four" was substituted for "three" by the Finance Act, 1982, w.e.f. 1-4-1983.

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

39. Substituted for "clause (*iv*)" by the Finance Act, 1997, w.e.f. 1-4-1998.

39a. Words ", clause (*v*) or clause (*va*)" shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000.**

40. Proviso omitted by the Finance Act, 1983, w.e.f. 1-4-1984. The original proviso was inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

41. Omitted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to omission, existing first and second provisos as inserted by the Finance Act, 1984, w.e.f. 1-4-1985 and later substituted by the Finance Act, 1988, w.e.f. 1-4-1989, read as under:

"**Provided** that where the gross total income of the assessee includes any income by way of interest on any deposits referred to in clause (*iia*), or income in respect of units referred to in clause (*v*) or clause (*va*), or income by way of interest or dividend referred to in clause (*x*), there shall be allowed in computing the total income of the assessee, a further deduction of an amount equal to so much of such income as has not been allowed by way of deduction under the foregoing provisions of this sub-section; so, however, that the amount of such further deduction shall not exceed three thousand rupees:

Provided further that where any income by way of interest on any deposits referred to in clause (*iia*) or any dividends referred to in clause (*iv*) remains unallowed after the deduction under the foregoing provisions of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed three thousand rupees."

[42][*Explanation.*—For the purposes of this sub-section, the expression "security" means a Government security[43] as defined in clause (*2*) of section 2 of the Public Debt Act, 1944 (18 of 1944).]

(2) [44][***]

[45][(3) For the removal of doubts, it is hereby declared that where the income referred to in sub-section (1) is derived from any asset held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under the said sub-section in respect of such income in computing the total income of any partner of the firm or any member of the association or body.]

Deduction in respect of certain inter-corporate dividends.

80M. [46][*Omitted by the Finance Act, 1997, w.e.f. 1-4-1998*.]

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

43. Clause (*2*) of section 2 of the Public Debt Act, 1944, defines "Government security" as follows:

'(2) "Government security" means—

(*a*) a security, created and issued, whether before or after the commencement of this Act, by the Central Government for the purpose of raising a public loan, and having one of the following forms, namely:—

(*i*) stock transferable by registration in the books of the Bank; or

(*ii*) a promissory note payable to order; or

(*iii*) a bearer bond payable to bearer; or

(*iv*) a form prescribed in this behalf;

(*b*) any other security created and issued by the Central Government in such form and for such of the purposes of this Act as may be prescribed;'

44. Omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Prior to its omission, sub-section (2) stood as under :

"(2) In a case where the assessee is entitled also to the deduction under section 80K in relation to the whole or any part of the income by way of dividends referred to in clause (*iv*) of sub-section (1), only so much of such income by way of dividends as may remain after the deduction under section 80K shall be taken into account for the purpose of allowing the deduction under sub-section (1)."

45. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1976.

46. Prior to its omission, section 80M, as substituted by the Finance Act, 1990, w.e.f. 1-4-1991, and further amended by the Finance Act, 1993, w.e.f. 1-4-1994, read as under :

'†80M. *Deduction in respect of certain inter-corporate dividends*.—(1) Where the gross total income of a domestic company, in any previous year, includes any income by way of dividends from another domestic company, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of such domestic company, a deduction of an amount equal to,—

(*i*) in the case of a scheduled bank or a public financial institution or a State financial corporation or a State industrial investment corporation or a company registered under section 25 of the Companies Act, 1956 (1 of 1956), sixty per cent of the income by way of dividends from another domestic company;

(*ii*) in the case of any other domestic company, so much of the amount of income by way of dividends from another domestic company as does not exceed the amount of dividend distributed by the first-mentioned domestic company on or before the due date :

(Contd. on p. 1.429)

Deduction in the case of an Indian company in respect of royalties, etc., received from any concern in India.

[47]**80MM.** [*Omitted by the Finance Act, 1983, w.e.f. 1-4-1984. Original section was inserted by the Finance Act, 1969, w.e.f. 1-4-1970.*]

(Contd. from p. 1.428)

Provided that where any domestic company receives any income by way of dividend from the units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), such domestic company shall, subject to the aforesaid provisions, be eligible for deduction to the extent of—

(*a*) four-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1994;

(*b*) two-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

and no deduction shall be allowed on such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1996 and any subsequent previous year.

(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under clause (*ii*) of sub-section (1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(3) Where the dividend distributed is in respect of any period comprised in the previous year ending on the 31st day of March, 1990, no deduction shall be allowed in respect of such dividend.

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

(*i*) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), and which is a domestic company;

(*ii*) "public financial institution" shall have the meaning assigned to it in section 4A of Companies Act, 1956 (1 of 1956);

(*iii*) "State financial corporation" and "State industrial investment corporation" shall have the same meanings as in section 43B;

(*iv*) "due date" means the date for furnishing the return of income under sub-section (1) of section 139.'

Original section 80M was introduced in place of section 85A (inserted by the Finance Act, 1965, w.e.f. 1-4-1965) by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Section 80M, which has earlier undergone several amendments by the Finance Act, 1968, w.e.f. 1-4-1968, Finance Act, 1970, w.e.f. 1-4-1971, Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, Finance Act, 1975, w.e.f. 1-4-1976, Finance Act, 1976, w.e.f. 1-4-1977, Finance Act, 1981, w.e.f. 1-4-1982, Finance Act, 1982, w.e.f. 1-4-1983, Finance Act, 1984, w.e.f. 1-4-1985 and Finance Act, 1986, w.e.f. 1-4-1987.

†*See* also Circular No. 58, dated 15-4-1971.

47. Prior to its omission, section 80MM was amended by the Finance Act, 1970, w.e.f. 1-4-1970, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972 and the Finance Act, 1974, w.e.f. 1-4-1975.

Deduction in respect of dividends received from certain foreign companies.

[48]**80N.** [*Omitted by the Finance Act, 1985, w.e.f. 1-4-1986. This topic was originally dealt with by section 85B which was inserted by the Finance Act, 1966, w.e.f. 1-4-1966. Present section 80N was inserted in place of section 85B which was deleted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.*]

[49][[50]**Deduction in respect of royalties, etc., from certain foreign enterprises.**

[51]**80-O.** [52][Where the gross total income of an assessee, being an Indian company [53][or a person (other than a company) who is resident in India]], includes [54][any income received by the assessee from the Government of a foreign State or foreign enterprise in consideration for the use outside India of any patent, invention, design or registered trade mark] [55][***] [56][and such income is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of an amount equal to fifty per cent of the income so received in, or brought into, India, in computing the total income of the assessee]:

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48. Omitted section was amended by the Finance Act, 1968, w.e.f. 1-4-1969, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance Act, 1974, w.r.e.f. 1-4-1969/w.e.f. 1-4-1975 and the Finance Act, 1984, w.e.f. 1-4-1985.

49. Substituted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972. This topic was originally dealt with by section 85C which was inserted by the Finance Act, 1966, w.e.f. 1-4-1966. Section 80-O was inserted, in place of section 85C which was deleted, by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Section 80-O was later on amended by the Finance Act, 1968, w.e.f. 1-4-1969.

50. *See* also Circular No. 253, dated 30-4-1979, Circular No. 533, dated 27-3-1989, Circular No. 575, dated 31-8-1990, Circular No. 700, dated 23-3-1995 and Circular No. 731, dated 20-12-1995. For details, *see* Taxmann's Master Guide to Income-tax Act.

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

52. Substituted for "(1) Where the gross total income of an assessee, being an Indian company or a person (other than a company) who is resident in India," by the Finance Act, 1974, w.e.f. 1-4-1975.

53. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

54. Substituted for the portion beginning with the words "any income by way of royalty" and ending with the words "outside India to such Government or enterprise by the assessee," by the Finance Act, 1997, w.e.f. 1-4-1998. Earlier the quoted portion was amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

55. Words "under an agreement approved in this behalf by the Chief Commissioner or the Director General;" omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Earlier these words were substituted for "under an agreement approved by the Board in this behalf" by the Finance Act, 1988, w.e.f. 1-4-1989.

56. Substituted for "and such income is received in convertible foreign exchange in India, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of an amount equal to fifty per cent of the income so received in India in computing the total income of the assessee" (as it stood after the amendment made by the Finance Act, 1987) by the Finance Act, 1988, w.e.f. 1-4-1988. Earlier, this portion of the section was amended by the Finance Act, 1974, with retrospective effect from 1-4-1972 and later on by the Finance Act, 1984, w.e.f. 1-4-1985.

[57][***]

[58][**Provided** [59][***] that such income is received in India within a period of six months from the end of the previous year, or [60]**[***within such further period as the competent authority may allow in this behalf***]**:]

[61]**[Provided further** *that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.***]**

[62][*Explanation.*—For the purposes of this section,—

(*i*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the law for the time being in force for regulating payments and dealings in foreign exchange;

[63][(*ii*) "foreign enterprise" means a person who is a non-resident;]]

[64][(*iii*) services rendered or agreed to be rendered outside India shall include services rendered from India but shall not include services rendered in India;]

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57. Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to omission, the provisos as substituted by the Finance Act, 1988, w.e.f. 1-4-1989, read as under:

"**Provided** that the application for the approval of the agreement referred to in this section is made to the Chief Commissioner or, as the case may be, the Director General in the prescribed form and verified in the prescribed manner before the1st day of October of the assessment year in relation to which the approval is first sought:

Provided further that the approval of the Chief Commissioner or, as the case may be, the Director General shall not be necessary in the case of any such agreement which has been approved for the purposes of the deduction under this section by the Central Government before the 1st day of April, 1972 or by the Board before the 1st day of April, 1989, and every application for such approval of any such agreement pending with the Board immediately before the 1st day of April, 1989, shall stand transferred to the Chief Commissioner or the Director General for disposal."

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

59. Word "also" omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

60. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to its substitution the said portion, as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

61. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

62. Substituted for following *Explanation*, which was earlier inserted by the Finance Act, 1974, with retrospective effect from 1-4-1972, by the Finance Act, 1985, w.e.f. 1-4-1986:

"*Explanation.*—The provisions of the *Explanation* to section 80N shall apply for the purposes of this section as they apply for the purposes of that section."

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

"(*ii*) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given."

64. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

[64a]**[**(iv) *"competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

(2) [65][***]]

[66][**Deduction in respect of income of co-operative societies.**

[67]**80P.** (1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2) The sums referred to in sub-section (1) shall be the following, namely:—

(*a*) in the case of a co-operative society engaged in—

(*i*) carrying on the business of banking or providing credit facilities to its members, or

(*ii*) a cottage industry, or

[68]**[**(iii) *the marketing of agricultural produce grown by its members, or***]**

(*iv*) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

(*v*) the processing, without the aid of power, of the agricultural produce of its members, [69][or]

[69][(*vi*) the collective disposal of the labour of its members, or

(*vii*) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,]

the whole of the amount of profits and gains of business attributable to any one or more of such activities:

[70][**Provided** that in the case of a co-operative society falling under sub-clause (*vi*), or sub-clause (*vii*), the rules and bye-laws of the society

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64a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

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

66. Inserted in place of section 81, which was deleted, by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

67. *See* also Circular No. 319, dated 11-1-1982 and Circular No. 722, dated 19-9-1995. For details, *see* Taxmann's Master Guide to Income-tax Act.
For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

68. Substituted by the Income-tax (Second Amendment) Act, 1999, w.r.e.f. **1-4-1968.** Prior to its substitution, sub-clause (*iii*), as inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968, read as under :
"(*iii*) the marketing of the agricultural produce of its members, or"

69. Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

70. Inserted, *ibid.*

restrict the voting rights to the following classes of its members, namely:—

(*1*) the individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities;

(*2*) the co-operative credit societies which provide financial assistance to the society;

(*3*) the State Government;]

[71][(*b*) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits or vegetables raised or grown by its members to—

(*i*) a federal co-operative society, being a society engaged in the business of supplying milk, oilseeds, fruits, or vegetables, as the case may be; or

(*ii*) the Government or a local authority; or

(*iii*) a Government company[72] as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public),

the whole of the amount of profits and gains of such business;]

(*c*) in the case of a co-operative society engaged in activities other than those specified in clause (*a*) or clause (*b*) (either independently of, or in addition to, all or any of the activities so specified), so much of its profits and gains attributable to such activities as [73][does not exceed,—

(*i*) where such co-operative society is a consumers' co-operative society, [74][*one hundred*] thousand rupees; and

(*ii*) in any other case, [75][*fifty*] thousand rupees.

Explanation.—In this clause, "consumers' co-operative society" means a society for the benefit of the consumers;]

(*d*) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

(*e*) in respect of any income derived by the co-operative society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of such income;

(*f*) in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business

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71. Substituted by the Finance Act, 1983, w.e.f. 1-4-1984. Earlier it was substituted by the Finance Act, 1978, w.e.f. 1-4-1979.

72. For definition of "Government company" *see* footnote 18 on p. 1.19 *ante*.

73. Substituted for "does not exceed *twenty thousand rupees* " by the Finance Act, 1979, w.e.f. 1-4-1980. Italicised words were substituted for "fifteen thousand" by the Finance Act, 1969, w.e.f. 1-4-1970.

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

75. Substituted for "twenty", *ibid.*

or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed twenty thousand rupees, the amount of any income by way of interest on securities [76][***] or any income from house property chargeable under section 22.

Explanation.—For the purposes of this section, an "urban consumers' co-operative society" means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

(3) In a case where the assessee is entitled also to the deduction under [77][***] [78][section 80HH] [79][or section 80HHA] [80][or section 80HHB] [81][or section 80HHC] [82][or section 80HHD] [83][or section 80-I] [84][or section 80-IA] or section [85]80J [86][* * *] [87][***], the deduction under sub-section (1) of this section, in relation to the sums specified in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (2), shall be allowed with reference to the income, if any, as referred to in those clauses included in the gross total income as reduced by the deductions under [88][***] [89][section 80HH,] [90][section 80HHA,] [91][section 80HHB,] [92][section 80HHC,] [93][section 80HHD,] [94][section 80-I,] [95][section 80-IA,] [96][[97][section 80J[85] and section 80JJ]].]

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76. "chargeable under section 18" omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

77. "section 80H or" omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

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

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

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

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

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

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

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

85. Section 80J has now been omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1989.

86. Words "or section 80JJ" omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Earlier the quoted words were inserted by the Finance Act, 1975, w.e.f. 1-4-1976 and later on omitted by the Finance Act, 1985, w.e.f. 1-4-1986 and again inserted by the Finance Act, 1989, w.e.f. 1-4-1990.

87. "or section 80JJA", which expression was earlier inserted by the Finance Act, 1979, w.e.f. 1-4-1980, omitted by the Finance Act, 1983, w.e.f. 1-4-1984.

88. "section 80H," omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

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

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

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

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

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

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

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

96. Substituted for "section 80J and section 80JJ" by the Finance Act, 1985, w.e.f. 1-4-1986. Earlier, "section 80J and section 80JJ" was substituted for "section 80J, section 80JJ and section 80JJA" by the Finance Act, 1983, w.e.f. 1-4-1984, "section 80J, section 80JJ and section 80JJA" substituted for "section 80J and section 80JJ" by the Finance Act, 1979, w.e.f. 1-4-1980 and "sections 80J and 80JJ" substituted for "and section 80J" by the Finance Act, 1975, w.e.f. 1-4-1976.

97. Substituted for "and section 80J" by the Finance Act, 1989, w.e.f. 1-4-1990.

(4) [98][***]

[99][**Deduction in respect of profits and gains from the business of publication of books.**

[1]**80Q.** (1) Where in the case of an assessee the gross total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1992, or to any one of the four assessment years next following that assessment year, includes any profits and gains derived from a business carried on in India of printing and publication of books or publication of books, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof.

(2) In a case where the assessee is entitled also to the deduction under section 80HH or section 80HHA or section 80HHC or section 80-I or section 80-IA or section 80J[1a] or section 80P, in relation to any part of the profits and gains referred to in sub-section (1), the deduction under sub-section (1) shall be allowed with reference to such profits and gains included in the gross total income as reduced by the deductions under section 80HH, section 80HHA, section 80HHC, section 80-I, section 80-IA, section 80J† and section 80P.

(3) For the purposes of this section, "books" shall not include newspapers, journals, magazines, diaries, brochures, tracts, pamphlets and other publications of a similar nature by whatever name called.]

Deduction in respect of profits and gains from the business of publication of books.

[2]**80QQ.** [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original section was inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.*]

[3][**Deduction in respect of professional income of authors of text books in Indian languages.**

80QQA. (1) Where, in the case of an individual resident in India, being an author, the gross total income of the previous year relevant to the assessment year [4][commencing on—

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98. Omitted by the Finance Act, 1969, w.e.f. 1-4-1970.

99. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Earlier section 80Q was omitted by the Finance Act, 1972, w.e.f. 1-4-1973. Originally, it was inserted in place of section 82 which was deleted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

1. *See* also Circular No. 706, dated 26-6-1995, as corrected by Circular No. 746, dated 26-7-1996. For details, *see* Taxmann's Master Guide to Income-tax Act.

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

1a. Section 80J has now been omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1989.

2. Prior to its omission, section 80QQ, was amended by the Direct Taxes (Amendment) Act, 1974, w.e.f. 1-4-1974, Finance Act, 1975, w.e.f. 1-4-1975, Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, Finance (No. 2) Act, 1977, w.e.f. 1-4-1978, Finance Act, 1979, w.e.f. 1-4-1980 and Finance Act, 1981, w.e.f. 1-4-1981.

3. Inserted by the Finance Act, 1979, w.e.f. 1-4-1980.

4. Substituted for the words "commencing on the 1st day of April, 1980, or to any one of the nine assessment years next following that assessment year, includes" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Earlier word "nine" was substituted for "four" by the Finance Act, 1985, w.e.f. 1-4-1985.

(*a*) the 1st day of April, 1980, or to any one of the nine assessment years next following that assessment year; or

(*b*) the 1st day of April, 1992, or to any one of the four assessment years next following that assessment year,

includes] any income derived by him in the exercise of his profession on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book, or of royalties or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income of an amount equal to twenty-five per cent thereof.

(2) No deduction under sub-section (1) shall be allowed unless—

(*a*) the book is either in the nature of a dictionary, thesaurus or encyclopaedia or is one that has been prescribed or recommended as a text book, or included in the curriculum, by any University, for a degree or post-graduate course of that University; and

(*b*) the book is written in any language specified in the Eighth Schedule to the Constitution[5] or in any such other language as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the need for promotion of publication of books of the nature referred to in clause (*a*) in that language and other relevant factors.

Explanation.—For the purposes of this section,—

(*i*) "author" includes a joint author;

(*ii*) "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable;

(*iii*) "University" shall have the same meaning as in the *Explanation* to clause (*ix*) of section 47.]

[6][**Deduction in respect of remuneration from certain foreign sources in the case of professors, teachers, etc.**[7]

80R. Where the gross total income of an individual who is a citizen of India includes any remuneration received by him outside India from any University or other educational institution established outside India or [8][any other

5. For text of Eighth Schedule to the Constitution, *see* **Appendix One.**

6. This topic was dealt with by original section 80F which was inserted by the Finance (No. 2) Act, 1967, with retrospective effect from 1-4-1966. Section 80R was introduced in place of section 80F, which was deleted, by the Finance Act, 1967, w.e.f. 1-4-1968.

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

8. Substituted for "such other association or body established outside India as may be notified in this behalf by the Central Government in the Official Gazette" by the Finance Act, 1983, w.e.f. 1-4-1984.

association or body established outside India], for any service rendered by him during his stay outside India in his capacity as a professor, teacher or research worker in such University, institution, association or body, there shall be [9][allowed, in computing the total income of the individual, a deduction from such remuneration of an amount [10][equal to seventy-five per cent of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or [10a]**[***within such further period as the competent authority may allow in this behalf***]**:

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form[11], along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.]]

[12][***]

[12a]**[**Explanation.—*For the purposes of this section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised*

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9. Substituted for the words "allowed a deduction from such remuneration of an amount equal to fifty per cent thereof, in computing the total income of the individual:" by the Finance Act, 1990, w.e.f. 1-4-1991.

10. Substituted for the portion beginning with the words "equal to" and ending with the words "whichever is higher" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to substitution, the quoted portion, as amended by the Finance Act, 1990, w.e.f. 1-4-1991, read as under :

"equal to,—

(*i*) fifty per cent of the remuneration; or

(*ii*) seventy-five per cent of such remuneration as is brought into India by, or on behalf of, the assessee in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder,

whichever is higher."

10a. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution, the said portion read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

11. *See* rule 29A and Form No. 10H.

12. Omitted by the Finance Act, 1990, w.e.f. 1-4-1991. Prior to its omission, proviso read as under:

"**Provided** that where the individual renders continuous service outside India in such University, institution, association or body for a period exceeding thirty-six months, no deduction under this section shall be allowed in respect of the remuneration for such service relating to any period after the expiry of the thirty-six months aforesaid."

12a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

*under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

[13][**Deduction in respect of professional income from foreign sources in certain cases.**

[14]**80RR.** Where the gross total income of an individual resident in India, being an author, playwright, artist, [15][musician, actor or sportsman (including an athlete)], includes any income derived by him in the exercise of his profession from the Government of a foreign State or any person not resident in India, [16][there shall be allowed, in computing the total income of the individual, a deduction from such income of an amount [17][equal to seventy-five per cent of such income, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or [17a]**[***within such further period as the competent authority may allow in this behalf***]** :

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form[18], along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.]]

[18a]**[**Explanation.—*For the purposes of this section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

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13. Inserted by the Finance Act, 1969, w.e.f. 1-4-1970.

14. *See* also Circular No. 31, dated 25-10-1969 and Circular No. 675, dated 3-1-1994. For details, *see* Taxmann's Master Guide to Income-tax Act.

15. Substituted for "musician or actor" by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

16. Substituted for the words "and such income is received in, or brought into, India by him or on his behalf in accordance with the Foreign Exchange Regulation Act, 1947 (7 of 1947), and any rules made thereunder, there shall be allowed a deduction from such income of an amount equal to twenty-five per cent of the income so received or brought, in computing the total income of the individual" by the Finance Act, 1990, w.e.f. 1-4-1991.

17. Substituted for the portion beginning with the words "equal to" and ending with the words "whichever is higher" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to substitution, the quoted portion, as amended by the Finance Act, 1990, w.e.f. 1-4-1991, read as under :

"equal to,—

(*i*) fifty per cent of the income; or

(*ii*) seventy-five per cent of such income as is brought into India by, or on behalf of, the assessee in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder,

whichever is higher."

17a. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution, the said portion read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

18. *See* rule 29A and Form No. 10H.

18a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

[19][**Deduction in respect of remuneration received for services rendered outside India.**

[20]**80RRA.** (1) Where the gross total income of an individual who is a citizen of India includes any remuneration received by him in foreign currency from any employer (being a foreign employer or an Indian concern) for any service rendered by him outside India, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the individual, a deduction from such remuneration [21][of an amount [22][equal to seventy-five per cent of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or [22a]**[***within such further period as the competent authority may allow in this behalf***]** :

Provided that no deduction under this sub-section shall be allowed unless the assessee furnishes a certificate, in the prescribed form[23], along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.]]

[24][***]

(2) The deduction under this section shall be allowed—

(*i*) in the case of an individual who is or was, immediately before undertaking such service, in the employment of the Central Government or any State Government, only if such service is sponsored by the Central Government;

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19. Substituted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978. Original section was inserted by the Finance Act, 1975, w.e.f. 1-4-1975.

20. *See* also Circular No. 356, dated 17-3-1983 and Circular No. 705, dated 20-6-1995. For details, *see* Taxmann's Master Guide to Income-tax Act.

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

21. Substituted for "of an amount equal to fifty per cent thereof" by the Finance Act, 1987, w.e.f. 1-4-1988.

22. Substituted for the portion beginning with the words "equal to" and ending with the words "whichever is higher" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to substitution, the quoted portion, as amended by the Finance Act, 1987, w.e.f. 1-4-1988, read as under :

"equal to,—

(*i*) fifty per cent of the remuneration; or

(*ii*) seventy-five per cent of such remuneration as is brought into India by, or on behalf of, the assessee in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder,

whichever is higher."

22a. Substituted for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf" by the Finance Act, 1999, w.e.f. **1-6-1999.** Prior to substitution, the portion read as under :

"where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf"

23. *See* rule 29A and Form No. 10H.

24. Omitted by the Finance Act, 1990, w.e.f. 1-4-1991. Prior to omission, proviso read as under:

"**Provided** that where the individual renders continuous service outside India under or for such employer for a period exceeding thirty-six months, no deduction under this section shall be allowed in respect of the remuneration for such service relating to any period after the expiry of the thirty-six months aforesaid."

(*ii*) in the case of any other individual, only if he is a technician and the terms and conditions of his service outside India are approved in this behalf by the Central Government or the prescribed authority.

Explanation.—For the purposes of this section,—

(*a*) "foreign currency"[25] shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(*b*) "foreign employer" means,—

(*i*) the Government of a foreign State; or

(*ii*) a foreign enterprise; or

(*iii*) any association or body established outside India;

(*c*) "technician" means a person having specialised knowledge and experience in—

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

(*ii*) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building; or

(*iii*) public administration or industrial or business management; or

(*iv*) accountancy; or

(*v*) any field of natural or applied science (including medical science) or social science; or

(*vi*) any other field which the Board may prescribe[26] in this behalf,

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

[26a]**[**(d) *"competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.***]**

Deduction in respect of compensation for termination of managing agency, etc., in the case of assessees other than companies.

[27]**80S.** [*Omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Original section was introduced in place of old section 112 by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.*]

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25. For definition of "foreign currency", *see* footnote 35 on p. 1.62 *ante*.

26. Prescribed fields under rule 11C are as follows:

1. Profession of actuaries;

2. Banking;

3. Insurance;

4. Journalism.

26a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

27. Omitted section 80S, as amended by the Finance Act, 1973, w.r.e.f. 1-4-1972, stood as under: "80S. *Deduction in respect of compensation for termination of managing agency, etc., in the case of assessees other than companies.*—Where the gross total income of an assessee not being a company includes any income by way of compensation or other payment which is chargeable as the profits and gains of business or profession in accordance with the provisions of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) of clause (*ii*) of section 28, there shall be allowed, in computing the total income of the assessee, a deduction from such income of an amount equal to twenty-five per cent thereof, so, however, that the amount of the deduction under this section shall not, in any case, exceed one hundred thousand rupees."

Deduction in respect of long-term capital gains in the case of assessees other than companies.

[28]**80T.** [*Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original section was inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968 in replacement of section 114.*]

Deduction in respect of winnings from lottery.

[29]**80TT.** [*Omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Original section was inserted by the Finance Act, 1972, w.e.f. 1-4-1972.*]

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28. Section 80T, as amended by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance (No. 2) Act, 1974, w.e.f. 1-4-1975, the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, the Finance Act, 1982, w.e.f. 1-4-1983 and the Finance Act, 1986, w.e.f. 1-4-1987, stood as under:

'80T. *Deduction in respect of long-term capital gains in the case of assessees other than companies.*—Where the gross total income of an assessee not being a company includes any income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets (such income being, hereinafter, referred to as long-term capital gains), there shall be allowed, in computing the total income of the assessee, a deduction from such income of an amount equal to,—

(*a*) in a case where the long-term capital gains do not exceed ten thousand rupees, the whole of such long-term capital gains;

(*b*) in any other case, ten thousand rupees as increased by a sum equal to—

(*A*) fifty per cent of the amount by which the long-term capital gains relating to capital assets, being buildings or lands or any rights in buildings or lands or gold, bullion or jewellery, exceed ten thousand rupees;

(*B*) sixty per cent of the amount by which the long-term capital gains relating to any other capital assets exceed ten thousand rupees:

Provided that where the long-term capital gains relate to—

(*i*) buildings or lands or any rights in buildings or lands;

(*ii*) gold, bullion or jewellery; and

(*iii*) any other capital asset,

or to any two of the categories of capital assets mentioned in the foregoing clauses of this proviso (the assets falling under each clause being treated as a separate category), the deduction of ten thousand rupees referred to in this clause shall be allowed in the following order, namely:—

(*1*) the deduction shall first be allowed against long-term capital gains relating to the assets mentioned in clause (*i*);

(*2*) next, where the amount of the long-term capital gains relating to the assets mentioned in clause (*i*) is less than ten thousand rupees, a deduction equal to the amount of the difference between ten thousand rupees and such capital gains shall be allowed against the long-term capital gains relating to the assets mentioned in clause (*ii*); and

(*3*) thereafter, the balance, if any, of the said ten thousand rupees shall be allowed as a deduction against the long-term capital gains relating to the assets mentioned in clause (*iii*),

and the provisions of sub-clause (*A*) and sub-clause (*B*) of this clause shall apply as if the references to ten thousand rupees therein were references to the amount of deduction allowed in accordance with clauses (*1*), (*2*) and (*3*) of this proviso.'

29. Section 80TT, as amended by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, stood as under :

(Contd. on p. 1.442)

[30][*D.—Other deductions*

[31][**Deduction in the case of permanent physical disability (including blindness).**

[32]**80U.** [33]In computing the total income of an individual, being a resident, who, at the end of the previous year, is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a

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(Contd. from p. 1.441)

"80TT. *Deduction in respect of winnings from lottery.*—Where the gross total income of an assessee, not being a company, includes any income by way of winnings from any lottery (such income being hereafter in this section referred to as winnings), there shall be allowed, in computing the total income of the assessee, a deduction from the winnings of an amount equal to,—

(*a*) in a case where the winnings do not exceed five thousand rupees, the whole of such winnings;

(*b*) in any other case, five thousand rupees as increased by a sum equal to fifty per cent of the amount by which the winnings exceed five thousand rupees."

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

31. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to substitution, section 80U, as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, Finance Act, 1984, w.e.f. 1-4-1985, Finance Act, 1987, w.e.f. 1-4-1988, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and the Finance Act, 1989, w.e.f. 1-4-1990, read as under:

"80U. *Deduction in the case of totally blind or physically handicapped resident persons.*—(1) In computing the total income of an individual, being a resident, who, as at the end of the previous year,—

(*i*) is totally blind, or

(*ii*) is subject to or suffers from a permanent physical disability (other than blindness) being a permanent physical disability specified in the rules made in this behalf by the Board, and which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation, or

(*iii*) is subject to mental retardation to the extent specified in the rules made in this behalf by the Board, and which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation,

there shall be allowed a deduction of a sum of fifteen thousand rupees:

Provided that such individual produces before the Assessing Officer, in respect of the first assessment year for which deduction is claimed under this section,—

(*a*) in a case referred to in clause (*i*), a certificate as to his total blindness from a registered medical practitioner being an oculist;

(*b*) in a case referred to in clause (*ii*), a certificate as to the permanent physical disability referred to in the said clause from a registered medical practitioner; and

(*c*) in a case referred to in clause (*iii*), a certificate as to the mental retardation from a psychiatrist working in a Government hospital.

(2) The Board shall, in making any rules for specifying any disability or mental retardation for the purposes of clause (*ii*) or clause (*iii*), as the case may be, of sub-section (1), have regard to the nature of such disability or mental retardation and the effect which such disability or mental retardation is likely to have on the capacity of a person subject thereto, or suffering therefrom, to engage in a gainful employment or occupation."

32. *See* also Circular No. 653, dated 15-6-1993. For details, *see* Taxmann's Master Guide to Income-tax Act.

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

permanent physical disability or mental retardation specified in the rules[34] made in this behalf by the Board, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such individual's capacity for normal work or engaging in a gainful employment or occupation, there shall be allowed a deduction of a sum of [35][forty] thousand rupees :

Provided that such individual produces the aforesaid certificate before the Assessing Officer in respect of the first assessment year for which he claims deduction under this section :

Provided further that the requirement of producing the aforesaid certificate from a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital shall not apply to an individual who has already produced a certificate before the Assessing Officer under the provisions of this section as they stood immediately before the 1st day of April, 1992.

Explanation.—For the purposes of this section, the expression "Government hospital" shall have the meaning assigned to it in the *Explanation* to section 80DD.]

Deduction from gross total income of the parent in certain cases.

80V. [36][*Omitted by the Finance Act, 1994, w.e.f. 1-4-1995.*]

Deduction in respect of expenses incurred in connection with certain proceedings under the Act.

[36a]**80VV.** [*Omitted by the Finance Act, 1985, w.e.f. 1-4-1986. Original section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.*]

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34. *See* rule 11D for specified categories of 'permanent physical disability'.

35. Substituted for "twenty" by the Finance Act, 1995, w.e.f. 1-4-1996.

36. Prior to omission section 80V, as inserted by the Finance Act, 1993, w.e.f. 1-4-1994, read as under :

"80V. *Deduction from gross total income of the parent in certain cases.*—Where a minor child, whose income is included in the total income of one of his parents under sub-section (1A) of section 64, is suffering from any disability of the nature specified in section 80U, then, in computing the total income of such parent, there shall be allowed from the gross total income of such parent a deduction of a sum to which such minor child would have been entitled under section 80U had the total income of such minor child been computed separately."

Earlier existing section 80V was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and later on omitted by the Finance Act, 1985, w.e.f. 1-4-1986.

36a. Omitted section 80VV read as under :

"80VV. *Deduction in respect of expenses incurred in connection with certain proceedings under the Act.*—In computing the total income of an assessee, there shall be allowed by way of deduction any expenditure incurred by him in the previous year in respect of any proceedings before any income-tax authority or the Appellate Tribunal or any Court relating to the determination of any liability under this Act, by way of tax, penalty or interest :

Provided that no deduction under this section shall, in any case, exceed in the aggregate five thousand rupees."

CHAPTER VI-B

RESTRICTION ON CERTAIN DEDUCTIONS IN THE CASE OF COMPANIES

[*Chapter VI-B consisting of section 80VVA omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original Chapter was inserted by the Finance Act, 1983, w.e.f. 1-4-1984 and amended by the Finance Act, 1985, w.e.f. 1-4-1986 and Finance Act, 1986, w.e.f. 1-4-1987.*]

CHAPTER VII

INCOMES FORMING PART OF TOTAL INCOME ON WHICH NO INCOME-TAX IS PAYABLE

81 to 85C. [*Omitted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Provisions of sections 81, 82, 83, 84, 85, 85A, 85B and 85C were incorporated from the same date in sections 80P, 80Q, 10(29), 80J (now omitted), 80K (now omitted), 80M, 80N (now omitted) and 80-O, respectively.*]

[37][**Share of member of an association of persons or body of individuals in the income of the association or body.**

86. Where the assessee is a member of an association of persons or body of individuals (other than a company or a co-operative society or a society

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37. Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, section 86, as amended by the Finance Act, 1964, w.e.f. 1-4-1964, the Finance Act, 1965, w.e.f. 1-4-1965, the Finance Act, 1968, w.e.f. 1-4-1969, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971, the Finance Act, 1981, w.e.f. 1-4-1981, 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 :

"86. *Other incomes.*—Income-tax shall not be payable by an assessee in respect of the following—

(*i*) [* * *]

(*ii*) [* * *]

(*iii*) if the assessee is a partner of an unregistered firm (not being an unregistered firm assessed as a registered firm under clause (*b*) of section 183), any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which income-tax is payable by the firm;

(*iv*) [* * *]

(*v*) if the assessee is a member of an association of persons or a body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India), his share in the income of the association or body computed in the manner provided in section 67A :

Provided that,—

(*a*) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income :

(Contd. on p. 1.445)

registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India), income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67A :

Provided that,—

(*a*) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income :

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case.]

Deduction from tax on certain securities.

[38]**86A.** [*Omitted by the Finance Act, 1988, w.e.f. 1-4-1989. Original section was inserted by the Finance Act, 1965, w.e.f. 1-4-1965.*]

CHAPTER VIII

[39][REBATES AND RELIEFS]

[40][*A.—Rebate of income-tax*

Rebate to be allowed in computing income-tax.

87. (1) In computing the amount of income-tax on the total income of an assessee with which he is chargeable for any assessment year, there shall be

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(Contd. from p. 1.444)

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case."

38. Prior to its omission, section 86A as amended by the Finance Act, 1966, w.e.f. 1-4-1966, stood as under :

"86A. *Deduction from tax on certain securities.*—Where there is included in the total income of an assessee—

(*i*) the interest due on any security of the Central Government issued or declared to be income-tax free, or

(*ii*) the interest due on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

the assessee shall be entitled to a deduction from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated on the amount so included at the average rate of income-tax or at the rate of twenty-seven and a half per cent, whichever is less."

39. Substituted for "Relief in respect of income-tax" by the Finance Act, 1990, w.e.f. 1-4-1991. Earlier existing heading was amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

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