V. G. MEHTA'S™

INCOME-TAX

READY RECKONER

ASSESSMENT YEAR

2004-05

WITH RATES TABLES AND EXAMPLES FOR

CAPITAL GAINS • WEALTH-TAX
GIFT-TAX • COMPANIES
GIST OF IMPORTANT CIRCULARS ON DIRECT TAXES
LIST OF BONUS SHARES

ASSESSMENT YEAR

2005-06

FOR DEDUCTION OF TAX FROM "SALARIES"
AND
COMPUTATION OF "ADVANCE TAX"
DURING THE FINANCIAL YEAR 2004-05

By

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TWO MINUTES PLEASE:

Before

You proceed to go through this publication, may I draw your kind attention to the following:
This "Income-tax Ready Reckoner" is based on the Direct-tax Laws as amended by the Finance (No. 2) Act, 2004.

Rates of income-tax, surcharge and additional surcharge:

In the case of individuals, HUFs., AOPs. & BOIs, the exemption limit is Rs. 50,000 for assessment years 2004-05 & 2005-06 and no changes are made in the rate structure for income-tax and surcharge on income-tax [Refer page 32 & 36].

In the case of all other categories of assessees other than individuals, HUFs., AOPs. & BOIs, no changes are made in the rate structure for income-tax and surcharge on income-tax in relation to assessment years 2004-05 & 2005-06 [Refer pp. 32-33 & 37].

In the case of all categories of assessees including individuals, HUFs, etc., for the assessment year 2005-06, the aggregate of income-tax and surcharge, if any, chargeable at scheduled rates, and also at flat rates u/s. 111A & 112, is to be increased by an additional surcharge (i.e., Education Cess) calculated @ 2% of such income-tax and surcharge [Vide section 2(11) of the Finance (No. 2) Act, 2004 on page 6].

The rates at which income tax is required to be deducted at source during the financial year 2004-05 from income by way of interest on securities, winnings from lotteries, etc. are specified in Part II of the First Schedule to the Finance (No. 2) Act, 2004, subject to certain exceptions [Refer item (ii) on page 38]. The amount of income-tax deducted/collected during the financial year 2004-05, is to be increased by surcharge at the rates prescribed on the amount of income-tax so deducted/collected [Refer paras (a), (b), & (c) of item (ii) on page 38]. The amount of income-tax and surcharge, if any, so deducted/collected shall be further increased by an additional surcharge (i.e., Education Cess) calculated at the rate of 2% of such income-tax and surcharge, if any [Vide section 2(11) of the Finance (No. 2) Act, 2004 on page 6].

INCOME-TAX

(i) In relation to assessment year 2005-06:

(1) Family pension received by the family members of armed forces of the Union is exempt, subject to conditions [Refer Para 2.4 on page 42].

(2) Income under the head "Salaries" cannot be set off against loss under the head "Profits and gains of business or profession" [Refer Para 4.2 on page 44].

(3) Limit for increase in installed capacity for the purposes of additional depreciation u/s. 32(1)(iia), reduced from 25% to 10% [Refer Para 5.1 on page 44]. Deduction u/s. 33AC withdrawn and 'Tonnage tax scheme' introduced in the case of shipping companies [Refer Para 5.2 on page 44]. In relation to assessment year 2004-2005 and subsequent years, interest commission or brokerage or fees for professional/technical services payable to a resident, or amounts payable to a resident contractor/sub-contractor, on which tax is deductible at source, will not be allowed as business expenditure, if the tax thereon has not been deducted/paid [Refer Para 5.4 on page 45]. Income of infrastructure capital company exempt u/s. 10(23G) to be included in computing book profit for the purpose of section 115JB [Refer Para 2.9 on page 43].

(4) Exemption of capital gains on compensation received on compulsory acquisition of agricultural land in certain urban areas [Refer Para 6.1 on page 46]. Exemption of long-term capital gains, arising on transfer of equity shares in a company or units of an equity oriented fund of a Mutual Fund on or after the date on which the Securities Transaction Tax as provided in the Chapter VII of the Finance (No. 2) Act, 2004 comes into force [Refer Para 6.2 on page 46]. Short-term capital gains arising in respect of the said equity shares or units on or after the said date, chargeable to income-tax @ flat rate of 10% [Refer Para 6.3 on page 46]. For computing capital gains, deduction not allowable for securities transaction tax paid [Refer Para 6.4 on page 47].

(5) Any sum of money (gift), exceeding Rs. 25,000, received by an individual or a HUF from any person on or after 1-9-2004, will be the income of the recipient and chargeable to income-tax under the head "Income from other sources" [Refer Para 1.1 on page 41].

(6) Deduction in respect of: (a) maintenance including medical treatment of a handicapped dependant who is a person with disability, u/s. 80DD, amended [Refer Para 8.2 on page 47]; (b) specified undertakings/enterprises u/s. 80-IA/80-IB, amended [Refer Para 8.3/8.4 on page 47/48]; & (c) a person with disability, u/s. 80U, amended [Refer Para 8.5 on page 339].

(7) Repayment of housing loan taken from employer being authority/board/corporation/body established under Central/State Act, eligible for rebate u/s. 88 [Refer Para 9.1 on page 339]. A resident individual, whose total income does not exceed Rs. 1,00,000, entitled u/s. 88D(a) to a deduction from the amount of income-tax on his total income of an amount equal to 100% of such income-tax & marginal relief provided u/s. 88D(b) where the total income is between Rs. 1,00,010 & Rs. 1,11,240 [Refer Para 9.2 on page 339]. Rebate will be allowed u/s. 88E for securities transaction tax paid in relation to taxable securities transactions chargeable as income under the head "Income from business of profession" and not as business expenditure [Refer Para 9.3 & 5.4 on page 339 & 46].

(8) Time limit u/s. 94(7)(b), in respect of holding of units (and not securities), extended from 3 months to 9 months, after record date of distribution of income. Units acquired within a period of 3 months prior to the record date of bonus units, loss arising on sale of such units (other than bonus units), within 9 months after the said record date, will be ignored and the amount of such loss will be deemed to be cost of bonus units [Refer Para 11.1 on page 341].

[Continued on page 342]

V. G. MEHTA'S™

INCOME-TAX READY RECKONER

ASSESSMENT YEAR

2004-05

WITH

RATES TABLES AND EXAMPLES FOR:

(1) CAPITAL GAINS
(2) WEALTH-TAX
(3) GIFT-TAX
(4) COMPANIES
(5) GIST OF IMPORTANT CIRCULARS ON DIRECT TAXES
(6) LIST OF BONUS SHARES

ALSO

ASSESSMENT YEAR

2005-06

FOR DEDUCTION OF TAX FROM "SALARIES"

&

COMPUTATION OF "ADVANCE TAX"

during the Financial year 2004-05

By

N. V. MEHTA

CHARTERED ACCOUNTANT

PUBLISHERS:

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THE FINANCE (NO. 2) ACT, 2004

AN ACT

to give effect to the financial proposals of the Central Government for the financial year 2004-2005.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I : PRELIMINARY

1. Short title and commencement. *(1)* This Act may be called the Finance (No. 2) Act, 2004.

(2) Save as otherwise provided in this Act, sections 2 to 65 shall be deemed to have come into force on the 1st day of April, 2004.

CHAPTER II : RATES OF INCOME-TAX

2. Income-tax. *(1)* Subject to the provisions of sub-sections *(2)* and *(3)*, for the assessment year commencing on the 1st day of April, 2004, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause *(i)* shall be reduced by the amount of income-tax determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section *(1)* or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such income-tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section *(2)* of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two and one-half per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(9) Subject to the provisions of sub-section *(10)*, in cases in which income-tax has to be charged under sub-section *(4)* of section 172 or sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act,

"advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such "advance tax";

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such "advance tax".

(10) In cases to which, Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in charging income-tax under sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause *(i)* shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections *(4)* to *(10)* and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on income-tax", so as to fulfil the commitment of the Government to provide and finance universalised quality basic education, calculated at the rate of two per cent. of such income-tax and surcharge.

(12) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2004, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III : DIRECT TAXES

INCOME-TAX

3. Amendment of section 2. In section 2 of the Income-tax Act, in clause *(24)*, after sub-clause *(xii)*, the following sub-clause shall be inserted with effect from the 1st day of April, 2005, namely:—

'*(xiii)* any sum referred to in clause (v) of sub-section (2) of section 56;'.

4. Amendment of section 7. In section 7 of the Income-tax Act, after clause *(ii)*, the following clause shall be inserted at the end, namely:—

"*(iii)* the contribution made, by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.".

5. Amendment of section 10. In section 10 of the Income-tax Act,—

(a) in clause *(4)*, in sub-clause *(ii)*, after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

"Provided further that nothing contained in this sub-clause shall apply to any income by way of interest paid or credited on or after the 1st day of April, 2005 to the Non-Resident (External) Account of such individual;";

(b) in clause *(6BB)*, for the words, figures and letters "an agreement entered after the 31st day of March, 1997 but before the 1st day of April, 1999 and approved by the Central Government in this behalf", the words, figures and letters "an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, or entered into after the 31st day of March, 2005, and approved by the Central Government in this behalf" shall be substituted with effect from the 1st day of April, 2006;

(c) in clause *(15)*, —

(A) after sub-clause *(iiib)*, the following sub-clause shall be inserted with effect from the 1st day of April, 2005, namely:—

"*(iiic)* interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework-agreement for financial co-operation entered into on the 25th day of November, 1993 by the Central Government with that Bank;";

(B) in sub-clause *(iv)*, in item *(fa)*, after the words "by a scheduled bank", the words, figures and letters "before the 1st day of April, 2005" shall be inserted with effect from the 1st day of April, 2006;

(d) in clause *(15A)*, before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

"Provided that nothing contained in this clause shall apply to any such agreement entered into on or after the 1st day of April, 2005.";

(e) after clause *(18)*, the following clause shall be inserted with effect from the 1st day of April, 2005, namely:—

"*(19)* family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed;";

(f) in clause *(23FB)*, with effect from the 1st day of October, 2004,—

(i) in *Explanation 1*, for clause *(c)*, the following clause shall be substituted, namely:—

'(c) "venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 and notified as such in the Official Gazette by the Board for the purposes of this clause;';

(ii) *Explanation 2* shall be omitted;

(g) in clause *(23G)*, before the *Explanation 1*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that the income, by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital company, shall be taken into account in computing the book profit and income-tax payable under section 115JB.";

(h) after clause *(36)*, the following shall be inserted with effect from the 1st day of April, 2005, namely:—

'*(37)* in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—

(i) such land is situate in any area referred to in item *(a)* or item *(b)* of sub-clause *(iii)* of clause *(14)* of section 2;

(ii) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

(iii) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;

(iv) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

Explanation.—For the purposes of this clause, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, tribunal or other authority;

(38) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund where—

(*a*) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and

(*b*) such transaction is chargeable to securities transaction tax under that Chapter.

Explanation.—For the purposes of this clause, "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than fifty per cent. of the total proceeds of such fund; and

(*ii*) which has been set up under a scheme of a Mutual Fund specified under clause (23D):

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.'.

6. Amendment of section 12AA. In section 12AA of the Income-tax Act, after sub-section *(2)*, the following sub-section shall be inserted at the end, with effect from the 1st day of October, 2004, namely:—

"*(3)* Where a trust or an institution has been granted registration under clause *(b)* of sub-section *(1)* and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.".

7. Amendment of section 17. In section 17 of the Income-tax Act, in clause *(1)*, after sub-clause *(vii)*, the following sub-clause shall be inserted, namely:—

"*(viii)* the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;".

8. Amendment of section 32. In section 32 of the Income-tax Act, in sub-section *(1)*, in clause *(iia)*, in the first proviso, in clause *(B)*, for the words "twenty-five per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of April, 2005.

9. Amendment of section 33AC. In section 33AC of the Income-tax Act, in sub-section *(1)*, after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided also that no deduction shall be allowed under this section for any assessment year commencing on or after the 1st day of April, 2005.".

10. Amendment of section 35AC. In section 35AC of the Income-tax Act, for sub-sections *(4)* and *(5)*, the following sub-sections shall be substituted with effect from the 1st day of October, 2004, namely:—

"*(4)* Where an association or institution is approved by the National Committee under sub-section *(1)*, and subsequently—

(i) that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted; or

(ii) such association or institution, to which approval has been granted, has not furnished to the National Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed,

the National Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval:

Provided that a copy of the order withdrawing the approval shall be forwarded by the National Committee to the Assessing Officer having jurisdiction over the concerned association or institution.

(5) Where any project or scheme has been notified as an eligible project or scheme under clause *(b)* of the *Explanation*, and subsequently—

(i) the National Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which such project or scheme was notified; or

(ii) a report in respect of such eligible project or scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed,

such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be:

Provided further that a copy of the notification by which the notification of the eligible project or scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or local authority, as the case may be, carrying on such eligible project or scheme.".

11. Amendment of section 40. In section 40 of the Income-tax Act, in clause *(a)*, for sub-clause *(i)*, the following shall be substituted, namely:—

'(*i*) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section *(1)* of section 200:

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section *(1)* of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

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

(A) "royalty" shall have the same meaning as in *Explanation* 2 to clause (*vi*) of sub-section *(1)* of section 9;

(B) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause (*vii*) of sub-section *(1)* of section 9;

(*ia*) any interest, commission or brokerage, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section *(1)* of section 200:

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section *(1)* of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

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

(*i*) "commission or brokerage" shall have the same meaning as in clause (*i*) of the *Explanation* to section 194H;

(*ii*) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause (*vii*) of sub-section *(1)* of section 9;

(*iii*) "professional services" shall have the same meaning as in clause (*a*) of the *Explanation* to section 194J;

(*iv*) "work" shall have the same meaning as in *Explanation III* to section 194C;

(*ib*) any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004;'.

12. Amendment of section 48. In section 48 of the Income-tax Act, after the fourth proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided also that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.".

13. Amendment of section 56. In section 56 of the Income-tax Act, in sub-section *(2)*, after clause *(iv)*, the following clause shall be inserted at the end, with effect from the 1st day of April, 2005, namely:—

'(*v*) where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004, the whole of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer.

Explanation .—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) brother or sister of either of the parents of the individual;

(*v*) any lineal ascendant or descendant of the individual;

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*).'.

14. Amendment of section 71. In section 71 of the Income-tax Act, after sub-section *(2)*, the following sub-section shall be inserted with effect from the 1st day of April, 2005, namely:—

'(2A) Notwithstanding anything contained in sub-section *(1)* or sub-section *(2)*, where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.'.

15. Insertion of new section 80CCD. After section 80CCC of the Income-tax Act, the following section shall be inserted, namely:—

'80CCD. Deduction in respect of contribution to pension scheme of Central Government. (1) Where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004, has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited as does not exceed ten per cent. of his salary in the previous year.

(2) Where, in the case of an assessee referred to in sub-section *(1)*, the Central Government makes any contribution to his account referred to in that sub-section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government as does not exceed ten per cent. of his salary in the previous year.

(3) Where any amount standing to the credit of the assessee in his account referred to in sub-section *(1)*, in respect of which a deduction has been allowed under that sub-section or sub-section *(2)*, together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any previous year,—

(a) on account of closure or his opting out of the pension scheme referred to in sub-section *(1)*; or

(b) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause *(a)* or clause *(b)* shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such amount is received, and shall accordingly be charged to tax as income of that previous year.

(4) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section *(1)*, no rebate with reference to such amount shall be allowed under section 88.

Explanation.—For the purposes of this section, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.'.

16. Amendment of section 80DD. In section 80DD of the Income-tax Act, in the *Explanation*, with effect from the 1st day of April, 2005,—

(a) in clause *(c)*, after the figures "1995", occurring at the end, the words, brackets, letters and figures 'and includes "autism", "cerebral palsy" and "multiple disability" referred to in clauses *(a), (c)* and *(h)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999' shall be inserted;

(b) in clause *(e)*, after the figures "1995", occurring at the end, the words, brackets, letters and figures 'or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses *(a), (c), (h), (j)* and *(o)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999' shall be inserted;

(c) in clause *(f)*, after the figures "1995", occurring at the end, the words, brackets, letter and figures "or clause *(j)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999" shall be inserted;

(d) for clause *(g)*, the following clause shall be substituted, namely:—

'(g) "person with severe disability" means—

(i) a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section *(4)* of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or

(ii) a person with severe disability referred to in clause *(o)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;'.

17. Amendment of section 80-IA. In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) in sub-section *(2)*, after the words "generates power or commences transmission or distribution of power", the words "or undertakes substantial renovation and modernisation of the existing transmission or distribution lines" shall be inserted;

(b) in sub-section *(3)*,—

(A) in the opening portion, for the words, brackets and figures "undertaking referred to in clause *(iv)*", the words, brackets and figures "undertaking referred to in clause *(ii)* or clause *(iv)*" shall be substituted;

(B) after clause *(ii)* and before the *Explanation 1*, the following proviso shall be inserted, namely:—

"Provided that nothing contained in this sub-section shall apply in the case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board referred to in clause *(7)* of section 2 of the Electricity Act, 2003, whether or not such transfer is in pursuance of the splitting up or reconstruction or reorganisation of the Board under Part XIII of that Act.";

(c) in sub-section *(4)*,—

(A) in clause *(ii)*, for the figures, letters and words "31st day of March, 2004", the figures, letters and words "31st day of March, 2005" shall be substituted;

(B) in clause *(iv)*, after sub-clause *(b)*, the following shall be inserted, namely:—

'*(c)* undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2006.

Explanation.—For the purposes of this sub-clause, "substantial renovation and modernisation" means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent. of the book value of such plant and machinery as on the 1st day of April, 2004.'.

18. Amendment of section 80-IB. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) in sub-section *(1)*, for the brackets, figures, word and letter "*(11)* and *(11A)*", the brackets, figures, letters and word "*(11), (11A)* and *(11B)*" shall be substituted;

(b) in sub-section *(4)*, after the third proviso, the following provisos shall be inserted, namely:—

'Provided also that in the case of an industrial undertaking in the State of Jammu and Kashmir, the provisions of the first proviso shall have effect as if for the figures, letters and words "31st day of March, 2004", the figures, letters and words "31st day of March, 2005" had been substituted:

Provided also that no deduction under this sub-section shall be allowed to an industrial undertaking in the State of Jammu and Kashmir which is engaged in the manufacture or production of any article or thing specified in Part C of the Thirteenth Schedule.';

(c) in sub-section *(8A)*, in clause *(iii)*, for the figures, letters and words "1st day of April, 2004", the figures, letters and words "1st day of April, 2005" shall be substituted;

(d) for sub-section *(10)*, the following shall be substituted, namely:—

(10) The amount of deduction in the case of an undertaking developing and building housing projects approved before the 31st day of March, 2007 by a local authority shall be hundred per cent. of the profits derived in the 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 such construction,—

(*i*) in a case where a housing project has been approved by the local authority before the 1st day of April, 2004, on or before the 31st day of March, 2008;

(*ii*) in a case where a housing project has been, or, is approved by the local authority on or after the 1st day of April, 2004, within four years from the end of the financial year in which the housing project is approved by the local authority.

Explanation.—For the purposes of this clause,—

(i) in a case where the approval in respect of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority;

(ii) the date of completion of construction of the housing project shall be taken to be the date on which the completion certificate in respect of such housing project is issued by the local authority;

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

"Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to a housing project carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings in areas declared to be slum areas under any law for the time being in force and such scheme is notified by the Board in this behalf;

(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; and

(d) the built-up area of the shops and other commercial establishments included in the housing project does not exceed five per cent. of the aggregate built-up area of the housing project or two thousand square feet, whichever is less.";

(*e*) in sub-section *(11A)*, for the words "an undertaking deriving profit from", the words "an undertaking deriving profit from the business of processing, preservation and packaging of fruits or vegetables or from" shall be substituted;

(f) after sub-section *(11A)*, the following sub-section shall be inserted, namely:—

"*(11B)* The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area shall be hundred per cent. of the profits and gains of such business for a period of five consecutive assessment years, beginning with the initial assessment year if—

(i) such hospital is constructed at any time during the period beginning on the 1st day of October, 2004 and ending on the 31st day of March, 2008;

(ii) the hospital has at least one hundred beds for patients;

(iii) the construction of the hospital is in accordance with the regulations, for the time being in force, of the local authority; and

(iv) the assessee furnishes along with the return of income, the report of an audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* below sub-section *(2)* of section 288, certifying that the deduction has been correctly claimed.

Explanation.—For the purposes of this sub-section, a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction, is issued by the concerned local authority.";

(g) in sub-section *(14)*,—

(A) clauses *(a)* and *(aa)* shall be re-lettered as clauses *(aa)* and *(ab)* respectively, and before clause *(aa)* as so re-lettered, the following clause shall be inserted, namely:—

'*(a)* "built-up area" means the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units;';

(B) in clause *(c)*,—

(I) in sub-clause *(iv)*, after the words "undertaking engaged", the words "in the business of processing, preservation and packaging of fruits or vegetables or" shall be inserted;

(II) after sub-clause *(vi)*, the following sub-clause shall be inserted, namely:—

"*(vii)* in the case of an undertaking engaged in operating and maintaining a hospital in a rural area, means the assessment year relevant to the previous year in which the undertaking begins to provide medical services;".

19. Amendment of section 80U. In section 80U of the Income-tax Act, for the *Explanation,* the following *Explanation* shall be substituted with effect from the 1st day of April, 2005, namely:—

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

(a) "disability" shall have the meaning assigned to it in clause *(i)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and includes "autism", "cerebral palsy" and "multiple disabilities" referred to in clauses *(a)*, *(c)* and *(h)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(b) "medical authority" means the medical authority as referred to in clause *(p)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses *(a)*, *(c)*, *(h)*, *(j)* and *(o)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(c) "person with disability" means a person referred to in clause *(t)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or clause *(j)* of

section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(d) "person with severe disability" means—

(i) a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section *(4)* of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or

(ii) a person with severe disability referred to in clause *(o)* of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.'.

20. Amendment of section 87. In section 87 of the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) in sub-section *(1)*, for the words, figures and letters "sections 88, 88A, 88B and 88C", the words, figures and letters "sections 88, 88A, 88B, 88C, 88D and 88E" shall be substituted;

(b) in sub-section *(2)*, after the words, figures and letter "or section 88C", the words, figures and letter "or section 88D or section 88E" shall be inserted.

21. Amendment of section 88. In section 88 of the Income-tax Act, in sub-section *(2)*, in clause *(xv)*, in sub-clause *(c)*, after item *(6)*, the following item shall be inserted with effect from the 1st day of April, 2005, namely:—

"*(6A)* the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or".

22. Insertion of new section 88D. After section 88C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

"*88D. Rebate of income-tax in case of certain individuals*. An assessee, being an individual resident in India,—

(*a*) whose total income does not exceed one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax;

(*b*) whose total income exceeds one hundred thousand rupees and the income-tax payable on such total income (as computed before allowing the deductions under this Chapter) exceeds the amount by which such total income is in excess of one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds one hundred thousand rupees.".

23. Insertion of new section 88E. After section 88D of the Income-tax Act, as so inserted, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

"*88E. Rebate in respect of securities transaction tax*. (1) Where total income of an assessee in a previous year includes any income, chargeable under the head "Profits and gains of business or profession", arising from taxable securities transactions, he shall be entitled to a deduction, from the amount of income-tax on such income arising from such transactions, computed in the manner provided in sub-section *(2)*, of an amount equal to the securities transaction tax paid by him in respect of the taxable securities transactions entered into in the course of his business during that previous year:

Provided that no deduction under this sub-section shall be allowed unless the assessee furnishes alongwith the return of income, evidence of payment of securities transaction tax in the prescribed form:

Provided further that the amount of deduction under this sub-section shall not exceed the amount of income-tax on such income computed in the manner provided in sub-section *(2)*.

(2) For the purposes of sub-section *(1)*, the amount of income-tax on the income arising from the taxable securities transactions, referred to in that sub-section, shall be equal to the amount calculated by applying the average rate of income-tax on such income.

Explanation.—For the purposes of this section, the expressions "taxable securities transaction" and "securities transaction tax" shall have the same meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004.".

24. Amendment of section 90. In section 90 of the Income-tax Act, in the *Explanation*, the words and brackets ", where such foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1962.

25. Amendment of section 94. In section 94 of the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) in sub-section *(7)*, for clause *(b)*, the following clause shall be substituted, namely:—

"*(b)* such person sells or transfers—

(i) such securities within a period of three months after such date, or

(ii) such unit within a period of nine months after such date;";

(b) after sub-section *(7)*, the following sub-section shall be inserted, namely:—

"*(8)* Where—

(a) any person buys or acquires any units within a period of three months prior to the record date;

(b) such person is allotted additional units without any payment on the basis of holding of such units on such date;

(c) such person sells or transfers all or any of the units referred to in clause *(a)* within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause *(b)*,

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause *(b)* as are held by him on the date of such sale or transfer.";

(c) in the *Explanation*, for clause *(aa)*, the following clause shall be substituted, namely:—

'*(aa)* "record date" means such date as may be fixed by—

(i) a company for the purposes of entitlement of the holder of the securities to receive dividend; or

(ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company as referred to in the *Explanation* to clause *(35)* of section 10, for the purposes of entitlement of the holder of the units to receive income, or additional unit without any consideration, as the case may be;'.

26. Insertion of new section 111A. After section 111 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 2005, namely:—

'*111A. Tax on short-term capital gains in certain cases.* (1) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset, being an equity share in a company or a unit of an equity oriented fund and—

(*a*) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and

(*b*) such transaction is chargeable to securities transaction tax under that Chapter,

the tax payable by the assessee on the total income shall be the aggregate of—

(*i*) the amount of income-tax calculated on such short-term capital gains at the rate of ten per cent; and

(*ii*) the amount of income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee:

Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the rate of ten per cent.

(2) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section *(1)*, the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(3) Where the total income of an assessee includes any short-term capital gains referred to in sub-section *(1)*, the rebate under section 88 shall be allowed from the income-tax on the total income as reduced by such capital gains.

Explanation.—For the purposes of this section, the expression "equity oriented fund" shall have the meaning assigned to it in the *Explanation* to clause *(38)* of section 10.'.

27. Amendment of section 115AD. In section 115AD of the Income-tax Act, in sub-section *(1)*, in clause *(ii)*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that the amount of income-tax calculated on the income by way of short-term capital gains referred to in section 111A shall be at the rate of ten per cent.;".

28. Amendment of section 115JB. In section 115JB of the Income-tax Act, in the *Explanation*, with effect from the 1st day of April, 2005,—

(a) in clause *(f)*, for the word and figures "section 10", the words, figures, brackets and letter "section 10 [other than the provisions contained in clause *(23G)* thereof]" shall be substituted;

(b) in clause *(ii)*, for the words and figures "provisions of section 10", the words, figures, brackets and letter "provisions of section 10 [other than the provisions contained in clause *(23G)* thereof]" shall be substituted.

29. Amendment of section 115R. In section 115R of the Income-tax Act, in sub-section *(2)*,—

(a) for the words "at the rate of twelve and one-half per cent." , the following shall be substituted with effect from the 9th day of July, 2004, namely:—

"at the rate of—

(i) twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family; and

(ii) twenty per cent. on income distributed to any other person:";

(b) in the proviso, the words, figures and letters "for a period of one year commencing from the 1st day of April, 2003" shall be omitted.

30. Insertion of new Chapter XII-G. After Chapter XII-F of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2005, namely:—

'CHAPTER XII-G

SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

A.—Meaning of certain expressions

115V. Definitions. In this Chapter, unless the context otherwise requires,—

(a) "bareboat charter" means hiring of a ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew;

(b) "bareboat charter-cum-demise" means a bareboat charter where the ownership of the ship is intended to be transferred after a specified period to the company to whom it has been chartered;

(c) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under sub-section *(1)* of section 7 of the Merchant Shipping Act, 1958;

(d) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(e) "fishing vessel" shall have the meaning assigned to it in clause *(12)* of section 3 of the Merchant Shipping Act, 1958;

(f) "pleasure craft" means a ship of a kind whose primary use is for the purposes of sport or recreation;

(g) "qualifying company" means a company referred to in section 115VC;

(h) "qualifying ship" means a ship referred to in section 115VD;

(i) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(j) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(k) "tonnage tax activities" means the activities referred to in sub-section *(1)* of section 115V-I;

(l) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(m) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

B.—Computation of tonnage income from business of operating qualifying ships

115VA. Computation of profits and gains from the business of operating qualifying ships. Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

115VB. Operating ships. For the purposes of this Chapter, a company shall be regarded as operating a ship if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship has been chartered in by it in an arrangement such as slot charter, space charter or joint charter:

Provided that a company shall not be regarded as the operator of a ship which has been chartered out by it on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

115VC. Qualifying company. For the purposes of this Chapter, a company is a qualifying company if—

(a) it is an Indian company;

(b) the place of effective management of the company is in India;

(c) it owns at least one qualifying ship; and

(d) the main object of the company is to carry on the business of operating ships.

Explanation.—For the purposes of this section, "place of effective management of the company" means—

(A) the place where the board of directors of the company or its executive directors, as the case may be, make their decisions; or

(B) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

115VD. Qualifying ship. For the purposes of this Chapter, a ship is a qualifying ship if—

(*a*) it is a sea going ship or vessel of fifteen net tonnage or more;

(*b*) it is a ship registered under the Merchant Shipping Act, 1958, or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958; and

(*c*) a valid certificate in respect of such ship indicating its net tonnage is in force,—

but does not include—

(i) a seagoing ship or vessel if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(ii) fishing vessels;

(iii) factory ships;

(iv) pleasure crafts;

(v) harbour and river ferries;

(vi) offshore installations;

(vii) dredgers;

(viii) a qualifying ship which is used as a fishing vessel for a period of more than thirty days during a previous year.

115VE. Manner of computation of income under tonnage tax scheme. (1) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(2) The business of operating qualifying ships giving rise to income referred to in sub-section *(1)* of section 115V-I shall be considered as a separate business (hereafter in this Chapter referred to as the tonnage tax business) distinct from all other activities or business carried on by the company.

(3) The profits referred to in sub-section *(1)* shall be computed separately from the profits and gains from any other business.

(4) The tonnage tax scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP.

(5) Where a company engaged in the business of operating qualifying ships is not covered under the tonnage tax scheme or, has not made an option to that effect, as the case may be, the profits and gains of such company from such business shall be computed in accordance with the other provisions of this Act.

115VF. Tonnage income. Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section *(1)* of section 115V-I shall not be chargeable to tax.

115VG. Computation of tonnage income. (1) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-sections *(2)* and *(3)*.

(2) For the purposes of sub-section *(1)*, the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by–

(a) the number of days in the previous year; or

(b) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year,

as the case may be.

(3) For the purposes of sub-section *(2)*, the daily tonnage income of a qualifying ship having tonnage referred to in column *(1)* of the Table below shall be the amount specified in the corresponding entry in column *(2)* of the Table:

TABLE

Qualifying ship having net tonnage *(1)*	*Amount of daily tonnage income* *(2)*
up to 1,000	Rs. 46 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs. 460 *plus* Rs. 35 for each 100 tons exceeding 1,000 tons
exceeding 10,000 but not more than 25,000	Rs. 3,610 *plus* Rs. 28 for each 100 tons exceeding 10,000 tons
exceeding 25,000	Rs. 7,810 *plus* Rs.19 for each 100 tons exceeding 25,000 tons.

(4) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

Explanation.—For the purposes of this sub-section, "deemed tonnage" shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

115VH. Calculation in case of joint operation, etc. (1) Where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(2) Subject to the provisions of sub-section *(1)*, where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

115V-I. Relevant shipping income. (1) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

(i) its profits from core activities referred to in sub-section *(2)*;

(ii) its profits from incidental activities referred to in sub-section *(5)*:

Provided that where the aggregate of all such incomes specified in clause *(ii)* exceeds one-fourth per cent. of the turnover from core activities referred to in sub-section *(2)*, such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(2) The core activities of a tonnage tax company shall be—

(i) its activities from operating qualifying ships; and

(ii) other ship-related activities mentioned as under:—

(A) shipping contracts in respect of—

(i) earning from pooling arrangements;

(ii) contracts of affreightment.

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

(a) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships and sharing earnings or operating profits on the basis of mutually agreed terms;

(b) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(B) specific shipping trades, being,—

(i) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

(ii) slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

(3) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause *(ii)* of sub-section *(2)* or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(4) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(5) The incidental activities shall be the activities which are incidental to the core activities and which may be prescribed for the purpose.

(6) Where a tonnage tax company operates any ship, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed in accordance with the other provisions of this Act.

(7) Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

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

(8) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company 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 tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Chapter, take the amount of income as may be reasonably deemed to have been derived therefrom.

Explanation.—For the purposes of this Chapter, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

115VJ. Treatment of common costs. (1) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(2) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purpose of the tonnage tax business and for the other business.

115VK. Depreciation. (1) For the purposes of computing depreciation under clause *(iv)* of section 115VL, the depreciation for the first previous year of the tonnage tax scheme (hereafter in this section referred to as the first previous year) shall be computed on the written down value of the qualifying ships as specified under sub-section *(2)*.

(2) The written down value of the block of assets, being ships, as on the first day of the first previous year, shall be divided in the ratio of the book written down value of the qualifying ships (hereafter in this section referred to as the qualifying assets) and the book written down value of the non-qualifying ships (hereafter in this section referred to as the other assets).

(3) The block of qualifying assets as determined under sub-section *(2)* shall constitute a separate block of assets for the purposes of this Chapter.

(4) For the purposes of sub-section *(2)*, the book written down value of the block of qualifying assets and the block of other assets shall be computed in the following manner, namely:—

(a) the book written down value of each qualifying asset and each other asset as on the first day of the previous year and which form part of the block of assets to be divided shall be determined by taking the book written down value of each asset appearing in the books of account as on the last day of the preceding previous year:

Provided that any change in the value of the assets consequent to their revaluation after the date on which the Finance (No. 2) Bill, 2004 receives the assent of the President shall be ignored;

(b) the book written down value of all the qualifying assets and other assets shall be aggregated; and

(c) the ratio of the aggregate book written down value of the qualifying assets to the aggregate book written down value of the other assets shall be determined.

(5) Where an asset forming part of a block of qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets.

Explanation.—For the purposes of this sub-section, appropriate portion of the written down value allocable to the asset, which begins to be used for purposes other than the tonnage tax business, shall be an amount which bears the same proportion to the written down value of the block of qualifying assets as on the first day of the previous year as the book written down value of the asset beginning to be used for purposes other than tonnage tax business bears to the book written down value of all the assets forming the block of qualifying asset.

(6) Where an asset forming part of a block of other assets begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset.

Explanation.—For the purposes of this sub-section, appropriate portion of written down value allocable to the asset which begins to be used for the tonnage tax business shall be an amount which bears the same proportion to the written down value of the block of other assets as on the first day of the previous year as the book written down value of the asset beginning to be used for tonnage tax business bears to the total book written down value of all the assets forming the block of other assets.

(7) For the purposes of computing depreciation under clause *(iv)* of section 115VL in respect of an asset mentioned in sub-sections *(5)* and *(6)*, depreciation computed for the previous year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this Act, depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section *(2)* had been brought forward from the preceding previous year.

Explanation 2.—For the purposes of this section, "book written down value" means the written down value as appearing in the books of account.

115VL. General exclusion of deduction and set off, etc. (1) Notwithstanding anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any previous year (hereafter in this section referred to as the "relevant previous year") in which it is chargeable to tax in accordance with this Chapter–

(i) sections 30 to 43B shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant previous years, had been given full effect to for that previous year itself;

(ii) no loss referred to in sub-sections *(1)* and *(3)* of section 70 or sub-sections *(1)* and *(2)* of section 71 or sub-section *(1)* of section 72 or sub-section *(1)* of section 72A, in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the previous years when the company is under the tonnage tax scheme;

(iii) no deduction shall be allowed under Chapter VI-A in relation to the profits and gains from the business of operating qualifying ships; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous years.

115VM. Exclusion of loss. (1) Section 72 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the previous years when the company is under the tonnage tax scheme.

(2) The losses referred to in sub-section *(1)* shall not be available for set off against any income other than relevant shipping income in any previous year beginning on or after the company exercises its option under section 115VP.

(3) Any apportionment necessary to determine the losses referred to in sub-section *(1)* shall be made on a reasonable basis.

115VN. Chargeable gains from transfer of tonnage tax assets. Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax in accordance with the provisions of section 45, read with section 50, and the capital gains so arising shall be computed in accordance with the provisions of sections 45 to 51:

Provided that for the purpose of computing such profits or gains, the provisions of section 50 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

Explanation.—For the purposes of this Chapter, "written down value of the block of qualifying assets" means the written down value computed in accordance with the provisions of sub-section *(2)* of section 115VK.

115V-O. Exclusion from section 115JB. The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section *(1)* of section 115V-I, shall be excluded from the book profit of the company for the purposes of section 115JB.

C.—Procedure for option of tonnage tax scheme

115VP. Method and time of opting for tonnage tax scheme. (1) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner as may be prescribed, for such scheme.

(2) The application under sub-section *(1)* may be made by any existing qualifying company at any time after the 30th day of September, 2004 but before the 1st day of January, 2005 (hereafter referred to as the "initial period"):

Provided that—

(i) a company incorporated after the initial period; or

(ii) a qualifying company incorporated before the initial period but which becomes a qualifying company for the first time after the initial period,

may make an application within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be.

(3) On receipt of an application for option for tonnage tax scheme under sub-section *(1)*, the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he—

(i) shall pass an order in writing approving the option for tonnage tax scheme; or

(ii) shall, if he is not so satisfied, pass an order in writing refusing to approve the option for tonnage tax scheme,

and a copy of such order shall be sent to the applicant:

Provided that no order under clause *(ii)* shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(4) Every order granting or refusing the approval of the option for tonnage tax scheme under clause *(i)* or clause *(ii)*, as the case may be, of sub-section *(3)* shall be passed before the expiry of one month from the end of the month in which the application was received under sub-section *(1)*.

(5) Where an order granting approval is passed under sub-section *(3)*, the provisions of this Chapter shall apply from the assessment year relevant to the previous year in which the option for tonnage tax scheme is exercised.

115VQ. Period for which tonnage tax option to remain in force. *(1)* An option for tonnage tax scheme, after it has been approved under sub-section *(3)* of section 115VP, shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised.

(2) An option for tonnage tax scheme shall cease to have effect from the assessment year relevant to the previous year in which—

(a) the qualifying company ceases to be a qualifying company;

(b) a default is made in complying with the provisions contained in section 115VT or section 115VU or section 115VV;

(c) the tonnage tax company is excluded from the tonnage tax scheme under section 115VZC;

(d) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Chapter may not be made applicable to it, and the profits and gains of the company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

115VR. Renewal of tonnage tax scheme. *(1)* An option for tonnage tax scheme approved under sub-section *(3)* of section 115VP may be renewed within one year from the end of the previous year in which the option ceases to have effect.

(2) The provisions of sections 115VP and 115VQ shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

115VS. Prohibition to opt for tonnage tax scheme in certain cases. A qualifying company, which, on its own, opts out of the tonnage tax scheme or makes a default in complying with the provisions of section 115VT or section 115VU or section 115VV or whose option has been excluded from tonnage tax scheme in pursuance of an order made under sub-section *(1)* of section 115VZC, shall not be eligible to opt for tonnage tax scheme for a period of ten years from the date of opting out or default or order, as the case may be.

D.—Conditions for applicability of tonnage tax scheme

115VT. Transfer of profits to Tonnage Tax Reserve Account. *(1)* A tonnage tax company shall, subject to and in accordance with the provisions of this section, be required to credit to a reserve account (hereafter in this section referred to as the Tonnage Tax Reserve Account) an amount not less than twenty per cent. of the book profit derived from the activities referred to in clauses *(i)* and *(ii)* of sub-section *(1)* of section 115V-I in each previous year to be utilised in the manner laid down in sub-section *(3)*:

Provided that a tonnage tax company may transfer a sum in excess of twenty per cent. of the book profit and such excess sum transferred shall also be utilised in the manner laid down in sub-section *(3)*.

Explanation.—For the purposes of this section, "book profit" shall have the same meaning as in the *Explanation* to sub-section *(2)* of section 115JB so far as it relates to the income derived from the activities referred to in clauses *(i)* and *(ii)* of sub-section *(1)* of section 115V-I.

(2) Where the company has book profit from the business of operating qualifying ships and book loss from any other sources, and consequently, the company is not in a position to create the full or any part of the reserves under sub-section *(1)*, the company shall create the reserves to the extent possible in that previous year and the shortfall, if any, shall be added to the amount of the reserves required to be created for the following previous year and such shortfall shall be deemed to be part of the reserve requirement of that following previous year:

Provided that to the extent the shortfall in creation of reserves during a particular previous year is carried forward to the following previous year under this sub-section, the company shall be considered as having created sufficient reserves for the first mentioned previous year:

Provided further that nothing contained in the first proviso shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive previous years.

(3) The amount credited to the Tonnage Tax Reserve Account under sub-section *(1)* shall be utilised by the company before the expiry of a period of eight years next following the previous year in which the amount was credited—

(a) for acquiring a new ship for the purposes of the business of the company; and

(b) until the acquisition of a new ship, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(4) Where any amount credited to the Tonnage Tax Reserve Account under sub-section *(1)*,—

(a) has been utilised for any purpose other than that referred to in clause *(a)* or clause *(b)* of sub-section *(3)*; or

(b) has not been utilised for the purpose specified in clause *(a)* of sub-section *(3)*; or

(c) has been utilised for the purpose of acquiring a new ship as specified in clause *(a)* of sub-section *(3)*, but such ship is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the previous year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section *(1)* shall be taxable under the other provisions of this Act—

(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 eight years specified in sub-section *(3)*; or

(iii) in a case referred to in clause *(c)*, in the year in which the sale or transfer took place:

Provided that the income so taxable under the other provisions of this Act shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(5) Notwithstanding anything contained in any other provision of this Chapter, where the amount credited to the Tonnage Tax Reserve Account in accordance with sub-section *(1)* is less than the minimum amount required to be credited under sub-section *(1)*, an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section *(1)* shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(6) If the reserve required to be created under sub-section *(1)* is not created for any two consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the failure to create the reserve under sub-section *(1)* had occurred.

Explanation.—For the purposes of this section, "new ship" includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

115VU. Minimum training requirement for tonnage tax company. (1) A tonnage tax company, after its option has been approved under sub-section *(3)* of section 115VP, shall comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director-General of Shipping and notified in the Official Gazette by the Central Government.

(2) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping along with the return of income under section 139 to the effect that such company has complied with the minimum training requirement in accordance with the guidelines referred to in sub-section *(1)* for the previous year.

(3) If the minimum training requirement is not complied with for any five consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the fifth consecutive previous year in which the failure to comply with the minimum training requirement under sub-section *(1)* had occurred.

115VV. Limit for charter in of tonnage. (1) In the case of every company which has opted for tonnage tax scheme, not more than forty-nine per cent. of the net tonnage of the qualifying ships operated by it during any previous year shall be chartered in.

(2) The proportion of net tonnage referred to in sub-section *(1)* in respect of a previous year shall be calculated based on the average of net tonnage during that previous year.

(3) For the purposes of sub-section *(2)*, the average of net tonnage shall be computed in such manner as may be prescribed in consultation with the Director-General of Shipping.

(4) Where the net tonnage of ships chartered in exceeds the limit under sub-section *(1)* during any previous year, the total income of such company in relation to that previous year shall be computed as if the option for tonnage tax scheme does not have effect for that previous year.

(5) Where the limit under sub-section *(1)* is exceeded in any two consecutive previous years, the option for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the limit had exceeded.

Explanation.—For the purposes of this section, the term "chartered in" shall exclude a ship chartered in by the company on bareboat charter-cum-demise terms.

115VW. Maintenance and audit of accounts. An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a previous year unless such company—

(i) maintains separate books of account in respect of the business of operating qualifying ships; and

(ii) furnishes, along with the return of income for that previous year, the report of an accountant, in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section, "accountant" shall have the same meaning as in the *Explanation* below sub-section *(2)* of section 288.

115VX. Determination of tonnage. (1) For the purposes of this Chapter,—

(a) the tonnage of a ship shall be determined in accordance with the valid certificate indicating its tonnage;

(b) "valid certificate" means,—

(i) in case of ships registered in India—

(a) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958;

(b) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969 as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958;

(ii) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship.

E.—Amalgamation and demerger of shipping companies

115VY. Amalgamation. Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company if it is a qualifying company:

Provided that where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under sub-section *(1)* of section 115VP within three months from the date of the approval of the scheme of amalgamation:

Provided further that where the amalgamating companies are tonnage tax companies, the provisions of this Chapter shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force:

Provided also that where one of the amalgamating companies is a qualifying company as on the 1st day of October, 2004 and which has not exercised the option for tonnage tax scheme within the initial period, the provisions of this Chapter shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

115VZ. Demerger. Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Chapter, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period if it is a qualifying company:

Provided that the option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

F.—Miscellaneous

115VZA. Effect of temporarily ceasing to operate qualifying ships. (1) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Chapter.

(2) Where a qualifying company continues to operate a ship, which temporarily ceases to be a qualifying ship, such ship shall not be considered as a qualifying ship for the purposes of this Chapter.

G.—Provisions of this Chapter not to apply in certain cases

115VZB. Avoidance of tax. (1) Subject to the provisions of this Chapter, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section *(1)*, a transaction or arrangement shall be considered an abuse if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(i) a person other than a tonnage tax company; or

(ii) a tonnage tax company in respect of its non-tonnage tax activities.

Explanation.—For the purposes of this section, "tax advantage" includes,—

(i) the determination of the allowance for any expense or interest, or the determination of any cost or expense allocated or apportioned, or, as the case may be, which has the effect of reducing the income or increasing the loss, as the case may be, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the previous year in which the transaction was entered into; or

(ii) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

115VZC. Exclusion from tonnage tax scheme. (1) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section *(1)* of section 115VZB, the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme:

Provided that an opportunity shall be given by the Assessing Officer by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme:

Provided further that no order under this sub-section shall be passed without the previous approval of the Chief Commissioner.

(2) The provisions of this section shall not apply where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Chapter.

(3) Where an order has been passed under sub-section *(1)* by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the previous year in which the transaction or arrangement was entered into.'.

31. Amendment of section 119. In section 119 of the Income-tax Act, in sub-section (2), in clause (*a*), after the bracket and words "whether by way of relaxation of any of the provisions of sections", the figures and letters "115P, 115S," shall be inserted with effect from the 1st day of October, 2004.

32. Amendment of section 139. In section 139 of the Income-tax Act, in sub-section *(9)*, in the *Explanation,* in clause *(c)*, in sub-clause *(i)*, for the words "deducted at source and", the words, figures and letters "deducted at source before the 1st day of April, 2005 and" shall be substituted with effect from the 1st day of April, 2005.

33. Amendment of section 139A. In section 139A of the Income-tax Act,—

(a) in sub-section *(5A)*, the first proviso shall be omitted with effect from the 1st day of April, 2005;

(b) in sub-sections *(5C)* and *(5D)*, for the word "buyer", the words "buyer or licensee or lessee" shall be substituted with effect from the 1st day of October, 2004.

34. Insertion of new section 142A. After section 142 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 15th day of November, 1972, namely:—

'*142A. Estimate by Valuation Officer in certain cases. (1)* For the purposes of making an assessment or re-assessment under this Act, where an estimate of the value of any investment referred to in section 69 or section 69B or the value of any bullion, jewellery or other valuable article referred to in section 69A or section 69B is required to be made, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him.

(2) The Valuation Officer to whom a reference is made under sub-section *(1)* shall, for the purposes of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.

(3) On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making such assessment or re-assessment:

Provided that nothing contained in this section shall apply in respect of an assessment made on or before the 30th day of September, 2004, and where such assessment has become final and conclusive on or before that date, except in cases where a reassessment is required to be made in accordance with the provisions of section 153A.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause *(r)* of section 2 of the Wealth-tax Act, 1957.'.

35. Amendment of section 153. In section 153 of the Income-tax Act, in *Explanation 1*, with effect from the 1st day of October, 2004,—

(a) in clause *(v)*, for the words "that section,", the words "that section, or" shall be substituted;

(b) after clause *(v)* and before the words "shall be excluded", the following clauses shall be inserted, namely:—

"*(vi)* the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section *(1)* of section 245Q and ending with the date on which the order rejecting the application is received by the Commissioner under sub-section *(3)* of section 245R, or

(vii) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section *(1)* of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section *(7)* of section 245R,".

36. Amendment of section 153B. In section 153B of the Income-tax Act, in sub-section *(1)*, in the *Explanation*, with effect from the 1st day of October, 2004,—

(a) in clause *(iv)*, for the words "that section,", the words "that section, or" shall be substituted;

(b) after clause *(iv)* and before the words "shall be excluded", the following clauses shall be inserted, namely:—

"*(v)* the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section *(1)* of section 245Q and ending with the date on which the order rejecting the application is received by the Commissioner under sub-section *(3)* of section 245R, or

(vi) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section *(1)* of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section *(7)* of section 245R,".

37. Amendment of section 194C. In section 194C of the Income-tax Act, in sub-section *(3)*, for clause *(i)*, the following clause shall be substituted with effect from the 1st day of October, 2004, namely:—

"*(i)* the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor or sub-contractor, if such sum does not exceed twenty thousand rupees:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section *(1)* or, as the case may be, sub-section *(2)* shall be liable to deduct income-tax under this section; or".

38. Insertion of new section 194LA. After section 194L of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2004, namely:—

'194LA. Payment of compensation on acquisition of certain immovable property. Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees.

Explanation.—For the purposes of this section,—

(i) "agricultural land" means agricultural land in India including land situate in any area referred to in items *(a)* and *(b)* of sub-clause *(iii)* of clause *(14)* of section 2;

(ii) "immovable property" means any land (other than agricultural land) or any building or part of a building.'.

39. Amendment of section 197. In section 197 of the Income-tax Act, in sub-section *(1)*, for the figures and letters "194C, 194D, 194G, 194H, 194-I, 194J, 194K", the figures and letters "194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA" shall be substituted with effect from the 1st day of October, 2004.

40. Amendment of section 198. In section 198 of the Income-tax Act, for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

41. Amendment of section 199. In section 199 of the Income-tax Act,—

(a) in sub-section *(1)*, for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(b) after sub-section *(2)*, the following sub-section shall be inserted at the end with effect from the 1st day of April, 2005, namely:—

"*(3)* Where any deduction is made in accordance with the foregoing provisions of this Chapter on or after the 1st day of April, 2005 and paid to the Central Government, the amount of tax deducted and specified in the statement referred to in section 203AA shall be treated as tax paid on behalf of the persons referred to in sub-section *(1)* or, as the case may be, sub-section *(2)* and credit shall be given to him for the amount so deducted in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.".

42. Amendment of section 200. In section 200 of the Income-tax Act,—

(a) in sub-section *(1)*, for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(b) after sub-section *(2)*, the following sub-section shall be inserted with effect from the 1st day of April, 2005, namely:—

"*(3)* Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section *(1A)* of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.".

43. Amendment of section 202. In section 202 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

44. Amendment of section 203. In section 203 of the Income-tax Act,—

(a) in sub-section *(1)*, for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(b) after sub-section *(2)*, the following sub-section shall be inserted at the end with effect from the 1st day of April, 2005, namely:—

"*(3)* Where the tax has been deducted or paid in accordance with the foregoing provisions of this Chapter on or after the 1st day of April, 2005, there shall be no requirement to furnish a certificate referred to in sub-section *(1)* or, as the case may be, sub-section *(2)*.".

45. Substitution of new section for section 203A. For section 203A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2004, namely:—

'203A. Tax deduction and collection account number. (1) Every person, deducting tax or collecting tax in accordance with the provisions of this Chapter, who has not been allotted a tax-deduction account number or, as the case may be, a tax-collection account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a "tax-deduction and collection-account number".

(2) Where a "tax deduction account number" or, as the case may be, a "tax-collection account number" or a "tax deduction and collection-account number" has been allotted to a person, such person shall quote such number—

(a) in all challans for the payment of any sum in accordance with the provisions of section 200 or sub-section *(3)* of section 206C;

(b) in all certificates furnished under section 203 or sub-section *(5)* of section 206C;

(c) in all the returns, delivered in accordance with the provisions of section 206 or sub-section *(5A)* or sub-section *(5B)* of section 206C to any income-tax authority; and

(d) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.'.

46. Insertion of new section 203AA. After section 203A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

"203AA. Furnishing of statement of tax deducted, etc. The prescribed income-tax authority or the person authorised by such authority referred to in sub-section *(3)* of section 200, shall, within the prescribed time after the end of each financial year beginning on or after the 1st day of April, 2005 prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed.".

47. Amendment of section 204. In section 204 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the words and figures "sections 195 to 203", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

48. Amendment of section 205. In section 205 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

49. Amendment of section 206. In section 206 of the Income-tax Act,—

(a) in sub-section *(1)*, with effect from the 1st day of October, 2004,—

(i) for the words "prescribed income-tax authority", the words "prescribed income-tax authority or such other authority or agency as may be prescribed" shall be substituted;

(ii) the following proviso shall be inserted, namely:—

"Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.";

(b) in sub-section *(2)*, with effect from the 1st day of April, 2005,–

(i) for the words "other than the principal officer in the case of every company", the words "other than the prescribed person in the case of every office of the Government and the principal officer in the case of every company" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that the prescribed person in the case of every office of Government and the principal officer in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter shall, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.".

50. Amendment of section 206C. In section 206C of the Income-tax Act,—

(a) after sub-section *(1B)*, the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:—

'(1C) Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter in this section referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sl. No. *(1)*	*Nature of contract or licence or lease, etc.* *(2)*	*Percentage* *(3)*
(i)	Parking lot	Two per cent.
(ii)	Toll plaza	Two per cent.
(iii)	Mining and quarrying	Two per cent.';

(b) in sub-section *(2)*, after the word, brackets and figure "sub-section *(1)*", the words, brackets, figure and letter "or sub-section *(1C)*" shall be inserted with effect from the 1st day of October, 2004;

(c) in sub-section *(3)*,—

(i) after the word, brackets and figure "sub-section *(1)*", the words, brackets, figure and letter" or sub-section *(1C)*" shall be inserted with effect from the 1st day of October, 2004;

(ii) the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that the person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.";

(d) in sub-section *(4)*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that where any amount is collected in accordance with the provisions of this section on or after the 1st day of April, 2005 and paid under sub-section *(3)* to the credit of the Central Government, the amount of tax collected and specified in the statement referred to in the second proviso to sub-section *(5)* shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.";

(e) in sub-section *(5)*,—

(i) for the word "buyer", the words "buyer or licensee or lessee" shall be substituted with effect from the 1st day of October, 2004;

(ii) the following provisos shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that no certificate may be furnished in a case where tax has been collected in accordance with the foregoing provisions of this section on or after the 1st day of April, 2005:

Provided further that the prescribed income-tax authority or the person authorised by such authority referred to in sub-section *(3)* shall, within the prescribed time after the end of each financial year, prepare and deliver to the buyer referred to in sub-section *(1)* or, as the case may be, to the licensee or lessee referred to in sub-section *(1C)*, a statement in the prescribed form specifying the amount of tax collected and such other particulars as may be prescribed.";

(f) in sub-section *(5A)*, with effect from the 1st day of October, 2004,—

(i) for the words, figures and letters "prepare half-yearly returns for the period ending on the 30th September and 31st March in each financial year", the words "prepare within the prescribed time after the end of each financial year" shall be substituted;

(ii) for the words "prescribed income-tax authority", the words "prescribed income-tax authority or such other authority or agency as may be prescribed" shall be substituted;

(iii) the following proviso shall be inserted, namely:—

"Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.";

(g) for sub-sections *(5B)* and *(5C)*, the following sub-sections shall be substituted with effect from the 1st day of April, 2005, namely:—

"*(5B)* Without prejudice to the provisions of sub-section *(5A)*, any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, may at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that where the person collecting tax is a company or the Central Government or a State Government, such person shall, in accordance with the provisions of this section, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(5C) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of sub-section *(5A)* and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein.

(5D) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section *(5B)* is defective, he may intimate the defect to the person collecting tax and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.";

(h) in sub-section *(9)*, with effect from the 1st day of October, 2004,—

(i) for the word "buyer", the words "buyer or licensee or lessee" shall be substituted;

(ii) after the word, brackets and figure "sub-section *(1)*", at both the places where they occur, the words, brackets, figure and letter "or sub-section *(1C)*" shall be inserted.

51. Amendment of section 206CA. In section 206CA of the Income-tax Act, after sub-section *(2)*, the following proviso shall be inserted with effect from the 1st day of October, 2004, namely:—

"Provided that the provisions of this section shall not apply on or after the 1st day of October, 2004.".

52. Amendment of section 245RR. In section 245RR of the Income-tax Act, for the words, brackets, figures and letter "under sub-section *(1)* of section 245R", the words, brackets, figures and letter "under sub-section *(1)* of section 245Q" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1998.

53. Amendment of section 246A. In section 246A of the Income-tax Act, in sub-section *(1)*, in clause *(a)*, in the opening portion, for the words "an order against the assessee", the words, brackets, figures and letters "an order passed by a Joint Commissioner under clause *(ii)* of sub-section *(3)* of section 115VP or an order against the assessee" shall be substituted with effect from the 1st day of October, 2004.

54. Amendment of section 253. In section 253 of the Income-tax Act, in sub-section *(1)*, after clause *(c)*, the following clause shall be inserted at the end, with effect from the 1st day of October, 2004, namely:—

"*(d)* an order passed by an Assessing Officer under sub-section *(1)* of section 115VZC.".

55. Insertion of new section 271FA. After section 271F of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

"271FA. Penalty for failure to furnish annual information return. If a person who is required to furnish an annual information return, as required under sub-section *(1)* of section 285BA, fails to furnish such return within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.".

56. Amendment of section 272A. In section 272A of the Income-tax Act, in sub-section *(2)*, after clause *(j)*, the following clause shall be inserted with effect from the 1st day of April, 2005, namely:—

"*(k)* to deliver or cause to be delivered a copy of the statement within the time specified in sub-section *(3)* of section 200 or the proviso to sub-section *(3)* of section 206C,".

57. Amendment of section 272B. In section 272B of the Income-tax Act, in sub-section *(2)*, after the word, brackets, figure and letter "sub-section *(5A)*", the words, brackets, figure and letter "or sub-section *(5C)*" shall be inserted with effect from the 1st day of April, 2005.

58. Amendment of section 272BBB. In section 272BBB of the Income-tax Act, in sub-section *(1)*, for the words "fails to comply", the words, figures and letters "fails to comply before the 1st day of October, 2004" shall be substituted with effect from the 1st day of October, 2004.

59. Amendment of section 273B. In section 273B of the Income-tax Act, for the word, figures and letter "section 271F," the words, figures and letters "section 271F, section 271FA," shall be substituted with effect from the 1st day of April, 2005.

60. Insertion of new section 277A. After section 277 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2004, namely:—

"277A. Falsification of books of account for document, etc. If any person (hereafter in this section referred to as the first person) wilfully and with intent to enable any other person (hereafter in this section referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act, makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act, the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Explanation.—For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.".

61. Amendment of section 278B. In section 278B of the Income-tax Act, after sub-section *(2)* and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:—

"*(3)* Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to the provisions contained in sub-section *(1)* or sub-section *(2)*, such company shall be punished with fine and every person, referred to in sub-section *(1)*, or the director, manager, secretary or other officer of the company referred to in sub-section *(2)*, shall be liable to be proceeded against and punished in accordance with the provisions of this Act.".

62. Amendment of section 279. In section 279 of the Income-tax Act, in sub-section *(1)*, for the words and figures "section 277 or section 278", the words, figures and letter "section 277, section 277A or section 278" shall be substituted with effect from the 1st day of October, 2004.

63. Substitution of new section for section 285BA. For section 285BA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2005, namely:—

'285BA. Obligation to furnish annual information return. (1) Any person, being—

(a) an assessee; or

(b) the prescribed person in the case of an office of Government; or

(c) a local authority or other public body or association; or

(d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

(e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or

(f) the Post Master General as referred to in clause *(j)* of section 2 of the Indian Post Office Act, 1898**;** or

(g) the Collector referred to in clause *(c)* of section 3 of the Land Acquisition Act, 1894; or

(h) the recognised stock exchange referred to in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956; or

(i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or

(j) a depository referred to in clause *(e)* of sub-section *(1)* of section 2 of the Depositories Act, 1996,

who is responsible for registering, or maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, shall furnish an annual information return, in respect of such specified financial transaction which is registered or recorded by him during any financial year beginning on or after the 1st day of April, 2004 and information relating to which is relevant and required for the purposes of this Act, to the prescribed income-tax authority or such other authority or agency as may be prescribed.

(2) The annual information return referred to in sub-section *(1)* shall be furnished within the prescribed time after the end of such financial year, in such form and manner (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any computer readable media) as may be prescribed.

(3) For the purposes of sub-section *(1)*, "specified financial transaction" means any—

(a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or

(b) transaction for rendering any service; or

(c) transaction under a works contract; or

(d) transaction by way of an investment made or an expenditure incurred; or

(e) transaction for taking or accepting any loan or deposit,

which may be prescribed:

Provided that the Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transactions:

Provided further that the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than fifty thousand rupees.

(4) Where the prescribed income-tax authority considers that the annual information return furnished under sub-section *(1)* is defective, he may intimate the defect to the person who has furnished such return and give him an opportunity of rectifying the defect within a period of one month from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed income-tax authority may, in his discretion, allow; and if the defect is not rectified within the said period of one month or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to furnish the annual information return.

(5) Where a person who is required to furnish an annual information return under sub-section *(1)* has not furnished the same within the prescribed time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such return within a period not exceeding sixty days from the date of service of such notice and he shall furnish the annual information return within the time specified in the notice.".

64. Amendment of Thirteenth Schedule. In the Thirteenth Schedule to the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) for the brackets, words, figures and letters "*[See section 80-IC(2)]*", the brackets, words, figures and letters "*[See sections 80-IB(4) and 80-IC(2)]*" shall be substituted;

(b) after Part B, the following Part shall be inserted, namely:—

"PART C

FOR THE STATE OF JAMMU AND KASHMIR

S. No.	*Article or thing*
1.	Cigarettes/cigars of tobacco, manufactured tobacco and substitutes
2.	Distilled/brewed alcoholic drinks
3.	Aerated branded beverages and their concentrates".

WEALTH-TAX

65. Amendment of section 35HA of Act 27 of 1957. In section 35HA of the Wealth-tax Act, 1957, after sub-section *(2)*, the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:—

"*(3)* Where an offence under this Act has been committed by a person, being a company and such offence is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section *(1)* or sub-section *(2)*, such company shall be punished with fine and every person, referred to in sub-section *(1)* or the director, manager, secretary or other officer of the company referred to in sub-section *(2)*, shall be liable to be proceeded against and punished in accordance with the provisions of this Act.".

CHAPTER IV: [SECTIONS 66 TO 89 RELATE TO INDIRECT TAXES (VIZ. CUSTOMS & EXCISE)]

CHAPTER V: [SECTION 90 RELATE TO SERVICE TAX]

CHAPTER VI : EDUCATION CESS

91. Education Cess. *(1)* Without prejudice to the provisions of sub-section *(11)* of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Education Cess, to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of money of the Education Cess levied under sub-section *(11)* of section 2 and this Chapter for the purposes specified in sub-section *(1)*, as it may consider necessary.

92. Definition. The words and expressions used in this Chapter and defined in the Central Excise Act, 1944, the Customs Act, 1962 or Chapter V of the Finance Act, 1994, shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be.

93. Education Cess on excisable goods. *(1)* The Education Cess levied under section 91, in the case of goods specified in the First Schedule to the Central Excise Tariff Act, 1985, being goods manufactured or produced, shall be a duty of excise (in this section referred to as the Education Cess on excisable goods), at the rate of two per cent., calculated on the aggregate of all duties of excise (including special duty of excise or any other duty of excise but excluding Education Cess on excisable goods) which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under the provisions of the Central Excise Act, 1944 or under any other law for the time being in force.

(2) The Education Cess on excisable goods shall be in addition to any other duties of excise chargeable on such goods, under the Central Excise Act, 1944 or any other law for the time being in force.

(3) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on excisable goods as they apply in relation to the levy and collection of the duties of excise on such goods under the Central Excise Act, 1944 or the rules, as the case may be.

94. Education Cess on imported goods. *(1)* The Education Cess levied under section 91, in the case of goods specified in the First Schedule to the Customs Tariff Act, 1975, being goods imported into India, shall be a duty of customs (in this section referred to as the Education Cess on imported goods), at the rate of two per cent., calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962 and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including—

(a) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975;

(b) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975;

(c) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975; and

(d) the Education Cess on imported goods.

(2) The Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force.

(3) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations, as the case may be.

95. Education Cess on taxable services. *(1)* The Education Cess levied under section 91, in the case of all services which are taxable services, shall be a tax (in this section referred to as the Education Cess on taxable services) at the rate of two per cent., calculated on the tax which is levied and collected under section 66 of the Finance Act, 1994.

(2) The Education Cess on taxable services shall be in addition to the tax chargeable on such taxable services, under Chapter V of the Finance Act, 1994.

(3) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules, as the case may be.

CHAPTER VII : SECURITIES TRANSACTION TAX

96. Extent, commencement and application. *(1)* This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It shall apply to taxable securities transactions entered into on or after the commencement of this Chapter.

97. Definitions. In this Chapter, unless the context otherwise requires,—

(1) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961;

(2) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(3) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(4) "derivative" has the meaning assigned to it in clause *(aa)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

(5) "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than fifty per cent. of the total proceeds of such fund; and

(*ii*) which has been set up under a scheme of a Mutual Fund:

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(6) "Mutual Fund" means a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act, 1961 (43 of 1961);

(7) "option in securities" has the meaning assigned to it in clause *(d)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

(8) "option premium" means the premium payable by the purchaser of an "option in securities" at the time of such purchase;

(9) "prescribed" means prescribed by rules made by the Board under this Chapter;

(10) "recognised stock exchange" shall have the same meaning as in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

(11) "securities transaction tax" means tax leviable on the taxable securities transactions under the provisions of this Chapter;

(12) "strike price" means the price at which the "option in securities" may be exercised on the expiry date of such option;

(13) "taxable securities transaction" means a transaction of—

(*a*) purchase or sale of an equity share in a company or a derivative or a unit of an equity oriented fund, entered into in a recognised stock exchange; or

(*b*) sale of a unit of an equity oriented fund to the mutual Fund;

(14) words and expressions used but not defined in this Chapter and defined in the Securities Contracts (Regulation) Act, 1956, the Income-tax Act, 1961 or the rules made thereunder, shall apply, so far as may be, in relation to securities transaction tax.

98. Charge of securities transaction tax. On and from the commencement of this Chapter, there shall be charged a securities transaction tax in respect of the taxable securities transaction specified in column (2) of the Table below, at the rate specified in the corresponding entry in column (3) of the said Table, on the value of such transaction and such tax shall be payable by the purchaser or the seller, specified in the corresponding entry in column (4) of the said Table:

Sl. No.	*Taxable securities transaction*	*Rate*	*Payable by*
(1)	*(2)*	*(3)*	*(4)*
1.	Purchase of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such purchase is entered into in a recognised stock exchange; and (*b*) the contract for the purchase of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.075 per cent.	Purchaser
2.	Sale of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such sale is entered into in a recognised stock exchange; and (*b*) the contract for the sale of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.075 per cent.	Seller
3.	Sale of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such sale is entered into in a recognised stock exchange; and (*b*) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	0.015 per cent.	Seller
4.	Sale of a derivative, where the transaction of such sale is entered into in a recognised stock exchange.	0.01 per cent.	Seller
5.	Sale of unit of an equity oriented fund to the Mutual Fund.	0.15 per cent.	Seller

99. Value of taxable securities transaction. The value of taxable securities transaction,—

(a) in the case of a taxable securities transaction relating to a derivative, being "option in securities", shall be the aggregate of the strike price and the option premium of such "option in securities";

(b) In the case of a taxable securities transaction relating to a derivative, being "futures", shall be the price at which such "futures" is traded; and

(c) in the case of any other taxable securities transaction, shall be the price at which such securities are purchased or sold:

Provided that the Board may, having regard to the manner in which taxable securities transactions are settled in a recognised stock exchange or such other factors which may be relevant for the purposes of determining the price of such securities, specify, by rules made by it, the method of determining the price of such securities for the purposes of this clause.

100. Collection and recovery of securities transaction tax. *(1)* Every recognised stock exchange shall collect the securities transaction tax from every person, being a purchaser or a seller, as the case may be, who enters into a taxable securities transaction in that stock exchange, at the rates specified in section 98.

(2) The prescribed person in the case of every Mutual Fund shall collect the securities transaction tax from every person who sells a unit to that Mutual Fund, at the rate specified in section 98.

(3) The securities transaction tax collected during any calendar month in accordance with the provisions of sub-section *(1)* or sub-section *(2)*, shall be paid by every recognised stock exchange or by the prescribed person in the case of every Mutual Fund, as the case may be, to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(4) Any recognised stock exchange or the prescribed person in the case of any Mutual Fund, who fails to collect the tax in accordance with the provisions of sub-section *(1)* or sub-section *(2)*, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section *(3)*.

101. Recognised stock exchange or Mutual Fund to furnish prescribed return. *(1)* Every recognised stock exchange or the prescribed person in the case of every Mutual Fund (hereafter in this Chapter referred to as assessee) shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form and verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable securities transactions entered into during such financial year in that stock exchange or, as the case may be, in respect of all taxable securities transactions, being sale of units to such Mutual Fund during such financial year.

(2) Where any assessee fails to furnish the return under sub-section *(1)* within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(3) Any assessee who has not furnished the return within the time allowed under sub-section *(1)* or sub-section *(2)*, or having furnished a return under sub-section *(1)* or sub-section *(2)*, discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

102. Assessment. *(1)* For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under section 101 or upon whom a notice has been served under sub-section *(2)* of section 101 (whether a return has been furnished or not), a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section *(1)* and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable securities transactions during the relevant financial year and determine the amount of securities transaction tax payable or refundable on the basis of such assessment:

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(3) Every assessee, in case any amount is refunded to it on assessment under sub-section *(2)*, shall, within such time as may be prescribed, refund such amount to the concerned person from whom such amount was collected.

103. Rectification of mistake. *(1)* With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed.

(2) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section *(1)*, the Assessing Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Assessing officer may—

(a) make an amendment under sub-section *(1)* of his own motion; or

(b) make such amendment if any mistake is brought to his notice by the assessee.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Assessing Officer.

(6) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund, which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

104. Interest on delayed payment of securities transaction tax. Every assessee who fails to credit the securities transaction tax or any part thereof as required under section 100, to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

105. Penalty for failure to collect or pay securities transaction tax. Any assessee who—

(a) fails to collect the whole or any part of the securities transaction tax as required under section 100; or

(b) having collected the securities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section *(3)* of that section, shall be liable to pay,—

(i) in the case referred to in clause *(a)*, in addition to paying the tax in accordance with the provisions of sub-section *(4)* of that section, or interest, if any, in accordance with the provisions of section 104, by way of a penalty, a sum equal to the amount of securities transaction tax that he failed to collect; and

(ii) in the case referred to in clause *(b)*, in addition to paying the tax in accordance with the provisions of sub-section *(3)* of that section and interest in accordance with the provisions of section 104, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of securities transaction tax that it failed to pay.

106. **Penalty for failure to furnish prescribed return.** If an assessee fails to furnish in due time the return which it is required to furnish under sub-section *(1)* of section 101 or by notice given under sub-section *(2)* of that section, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

107. **Penalty for failure to comply with notice.** If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section *(1)* of section 102, he may direct that such person shall pay, by way of penalty, in addition to any securities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each such failure.

108. Penalty not to be imposed in certain cases. Notwithstanding anything contained in the provisions of section 105 or section 106 or section 107, no penalty shall be imposable for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure:

Provided that no order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

109. **Application of certain provisions of Act 43 of 1961.** The provisions of the following sections of the Income-tax Act, 1961, as in force from time to time, shall apply, so far as may be, in relation to securities transaction tax as they apply in relation to income-tax:—

120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293.

110. **Appeals to Commissioner of Income-tax (Appeals).** *(1)* Any assessee aggrieved by any assessment order passed by the Assessing Officer under section 102 or any order under section 103, or denying his liability to be assessed under this Chapter, or by an order levying penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(2) Every appeal under sub-section *(1)* shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under the provisions of sub-section *(1)*, the provisions of sections 249 to 251 of the Income-tax Act, 1961, shall, as far as may be, apply.

111. **Appeals to the Appellate Tribunal.** *(1)* Any assessee aggrieved by an order passed by a Commissioner of Income-tax (Appeals) under section 110 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 110, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section *(1)* or sub-section *(2)* shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income-tax, as the case may be.

(4) Every appeal under sub-section *(1)* or sub-section *(2)* shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal filed under sub-section *(1)* shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section *(1)* or sub- section *(2)*, the provisions of sections 252 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply.

112. **False statement in verification, etc.** *(1)* If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section *(1)* shall be deemed to be non-cognizable within the meaning of that Code.

113. **Institution of proceedings.** A person shall not be proceeded against for any offence under section 112 except with the previous sanction of the Chief Commissioner of Income-tax.

114. **Power to make rules.** *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which the return shall be delivered or caused to be delivered to the Assessing Officer or to any other agency and the form and the manner in which such return shall be furnished under sub-section *(1)* or sub-section *(2)* of section 101;

(b) the time within which the return shall be furnished on receipt of notice under sub-section *(2)* of section 101;

(c) the form in which an appeal under section 110 or section 111 may be filed and the manner in which they may be verified;

(d) any other matter which by this Chapter is to be, or may be, prescribed.

(3) Every rule made under this Chapter and every notification issued under this chapter shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

115. **Power to remove difficulties.** *(1)* If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER VIII: MISCELLANEOUS

[SECTION 116 RELATE TO THE GOVERNMENT SAVINGS BANKS ACT, 1873, SECTION 117 RELATE TO THE INDIAN STAMP ACT, 1899, SECTIONS 118-119 RELATE TO THE CENTRAL SALES TAX ACT, 1956 and SECTION 120 RELATE TO THE FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2003].

121. Repeal of section 2 of Act 13 of 2004. Section 2 of the Finance Act, 2004 is hereby repealed and shall be deemed never to have been enacted.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item *(i)*, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item *(i)* above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	35 per cent. of the total income;
II. In the case of a company other than a domestic company,—	
(i) on so much of the total income as consists of,—	
(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(ii) on the balance, if any, of the total income	40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax*
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(C) on income by way of winnings from horse races	30 per cent.;
(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and *(38)* of section 10]	20 per cent.;
(E) on the whole of the other income	30 per cent.

* The amount of income-tax deducted is to be increased by —

(1) a surcharge at the rate specified on page 36; and

(2) an additional surcharge (i.e., Education Cess) at the rate of 2% on the aggregate amount of income-tax and surcharge, if any [Refer section 2(11) of the Finanace (No. 2) Act, 2004 on page 6].

	Rate of income-tax*
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section *(1A)* of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section *(1A)* of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item *(b)(iv)*] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33)*, *(36)* and *(38)* of section 10]	20 per cent.;
(viii) on any other income	40 per cent.

Explanation.—For the purpose of item 1*(b)(i)* of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

* Refer * marked footnote on page 36.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of —

(A) item *1* of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds eight hundred and fifty thousand rupees;

(ii) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent. of such tax;

(iii) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent of such income-tax.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section *(4)* of section 172 of the Income-tax Act or sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or section 115JB or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 111A or section section 112 shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item *(i)*, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item *(i)* above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2)	where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3)	where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112 shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 35 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

PART IV [(See section 2(12)(c)) RELATE TO RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME]

SALIENT FEATURES OF THE FINANCE (No. 2) ACT, 2004:

I. RATES OF INCOME-TAX:

(i) Rates of tax applicable to taxable income for the assessment year 2004-05:

These rates (i.e., income-tax & S.C. on I.T.) are specified in Part I of the First Schedule to the Finance (No. 2) Act, 2004 and are the same for all categories of taxpayers as those specified in Part III of the First Schedule to the Finance Act, 2003 for the purpose of payment of "advance tax" and deduction of tax at source from "Salaries" during the financial year 2003-04 (Refer pp. 32-33).

(ii) Rates for deduction of tax at source during the financial year 2004-05 from income other than "Salaries":

The rates at which income-tax is required to be deducted at source from income by way of interest on securities, other categories of interest, insurance commission, investment income of non-resident Indian, etc., are laid down in Part II of the First Schedule to the Finance (No. 2) Act, 2004 [Refer pp. 34-36]. These rates are broadly the same as those specified in Part II of the First Schedule to the Finance Act, 2003 except that in the case of a non-resident Indian, a person who is not resident in India and a foreign company, deduction of tax at source is not required to be made from long-term capital gains exempt u/s. 10(38) as explained in Para 6.2 on page 46 [Refer item 1(b)(i)(c), 1(b)(ii)(D) & 2(b)(vii) of Part II of the First Schedule to the Finance (No. 2) Act, 2004].

In respect of payment of income referred to in Part II as also in cases in which income-tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C, and 196D or where income-tax has to be collected at source under proviso to section 194B or from buyer or licensee or lessee by seller or licensor or lessor under section 206C, the amount of income-tax so deducted/collected shall be increased by a surcharge calculated,—

(a) in the case of every individual, HUF, AOP and BOI, at the rate of 10% of such income-tax deducted/collected where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds Rs. 8,50,000,

(b) in the case of every co-operative society, firm, local authority and company, at the rate of 2.5% of such income-tax deducted/collected, and

(c) in the case of every artificial juridical person referred to in section 2(31)(vii) of the Income-tax Act, at the rate of 10% of such income-tax deducted/collected.

The amount of income-tax and surcharge, if any, so deducted/collected shall be increased by an additional surcharge (i.e., Education Cess) calculated at the rate of 2% of such income-tax and surcharge, if any [Refer section 2(11) of the Finance (No. 2) Act, 2004].

Notes: (1) Deduction in respect of surcharge on income-tax and additional surcharge on I.T. & S.C. is to be made where payment is made even to a non-resident and a foreign company also.

(2) In respect of dividend declared, distributed or paid by a domestic company on or after 1-4-2004, additional income-tax at the rate of 12.5% as income-tax *plus* S.C. @ 2.5% of I.T. and additional S.C. (i.e., Education Cess) @ 2% of I.T. & S.C. is payable by such company u/s. 115-O(1) [Refer sections 2(4) & 2(11) of the Finance (No. 2) Act, 2004].

(3) In respect of income distributed by the specified company[1] or a Mutual Fund to its unit holders, additional income-tax at the rate of 12.5% as income-tax *plus* S.C. @ 2.5% of I.T. and additional S.C. (i.e., Education Cess) @ 2% of I.T. & S.C. is payable on such income by the specified company[1] or a Mutual Fund u/s. 115R(2). W.e.f. 9-7-2004, the rate of 12.5% as I.T. has been enhanced to 20% on income distributed to the unit holders who are not individuals or HUFs [Refer section 2(4), 2(11) & 29(a) of the Finance (No. 2) Act, 2004].

The amendments made to the provisions relating to deduction of tax at source/collection of tax are as under:

(1) At present, under section 194C(3)(i), deduction of income-tax is not required to be made by any person referred to in section 194C(1)/(2) from any sum credited or paid, to a contractor or sub-contractor, in pursuance of any contract the consideration for which does not exceed Rs. 20,000. Under the amendment, substituted section 194C(3)(i), w.e.f. 1-10-2004, deduction of income-tax is not required to be made by such person from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor or sub-contractor, if such sum does not exceed Rs. 20,000. However, where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds Rs. 50,000, the person responsible for paying such sums is required to deduct income-tax u/s. 194C(1)/(2) [Refer section 37 of the Finance (No. 2) Act, 2004].

1. Refer footnote No. 6 on page 212.

(2) Newly inserted section 194LA, w.e.f. 1-10-2004, provides that any person responsible for paying to a resident any sum, being in the nature of compensation/enhanced compensation or the consideration/ enhanced consideration on account of compulsory acquisition, under any law, of any land [other than agricultural land in India referred to in section 2(14)(iii)(a)/(b)] or any building or part of a building, shall, at the time of payment of such sum in cash or by a cheque/draft or any other mode, whichever is earlier, deduct an amount equal to 10% of such sum as income-tax thereon. However, no deduction of income-tax shall be made where the amount of such payment or the aggregate amount of such payments to a resident during the financial year does not exceed Rs. 1,00,000. The provision of section 197(1) relating to deduction of tax at lower rate/non-deduction are also amended to extend the benefit of deduction at lower rate/non-deduction where the tax is to be deducted at source u/s. 194LA [Refer sections 38 & 39 of the Finance (No. 2) Act, 2004].

(3) At present, section 199 provides that the credit of any deduction made in accordance with Chapter XVII-B and paid to the Central Government is treated as a payment of tax on behalf of the person from whose income the deduction was made and credit is given to him for the amount so deducted on the production of a certificate furnished u/s. 203. Under the amendment, newly inserted section 199(3), w.e.f. 1-4-2005, provides that where any deduction is made, in accordance with the provisions of Chapter XVII-B, on or after 1-4-2005 and paid to the Central Government, the amount of tax deducted and specified in the statement referred to in newly inserted section 203AA [Refer item (5) hereafter] shall be treated as tax paid on behalf of the persons referred to in section 199(1)/(2) and credit shall be given to him for the amount so deducted in the assessment made under the Income-tax Act for the assessment year for which such income is assessable without production of certificate. As no certificate u/s. 203 for tax deducted is to be issued for any tax deducted or paid on or after 1-4-2005, consequential amendment is made by newly inserted section 203(3) [Refer sections 41(b) & 44(b) of the Finance (No. 2) Act, 2004].

(4) At present, section 200 provides that any person deducting any sum in accordance with Chapter XVII-B, shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs. Under the amendment, newly inserted section 200(3), w.e.f. 1-4-2005, provides that any person deducting any sum on or after 1-4-2005 in accordance with Chapter XVII-B shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending 30th June, 30th September, 31st December & 31st March in each financial year and deliver to the prescribed income-tax authority or the person authorised by such authority, such statement in such form and setting forth such particulars and within such time as may be prescribed [Refer section 42(b) of the Finance (No. 2) Act, 2004].

(5) Newly inserted section 203AA, w.e.f. 1-4-2005, provides that the prescribed income-tax authority or the person authorised by such authority referred to in the newly inserted section 200(3) [refer item (4) above], shall, within the prescribed time after the end of each financial year beginning on or after 1-4-2005 prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid, a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed [Refer section 46 of the Finance (No. 2) Act, 2004].

(6) At present, section 206(1) provides that specified person responsible for deducting tax under Chapter XVII-B are required to prepare and deliver to the prescribed income-tax authority (refer rule 36A of I.T. Rules) returns regarding tax deducted at source in the prescribed form [refer rule 37 of I.T. Rules]. Under the amendment of section 206(1), w.e.f. 1-10-2004, such returns are required to be delivered to such prescribed income-tax authority or such other authority or agency as may be prescribed in the I.T. Rules to be framed. The Board has been authorised to frame a scheme for the purposes of filing such returns with such other authority or agency referred to in section 206(1) [Refer section 49(a) of the Finance (No. 2) Act, 2004].

At present, section 206(2) provides that in case of tax deductor not being the principal officer in the case of a company, the returns of tax deduction at source under Chapter XVII-B of the Income-tax Act, *may, at his option*, be filed on computer media or any other computer readable media such as like floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as specified in the scheme notified by the Board. However, the principal officer shall, in the case of a company responsible for deducting tax under Chapter XVII-B shall deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme [Proviso to section 206(2)]. Under the amendment of section 206(2) read with substituted proviso to section 206(2), w.e.f. 1-4-2005, the provision of existing provisions have been extended to the prescribed person in the case of every office of the Government [Refer section 49(b) of the Finance (No. 2) Act, 2004].

(7) W.e.f. 1-10-2004, newly inserted section 206(1C) provides that every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest, either in whole or part, in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the said licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease a sum equal to 2% of such amount as income-tax. Consequential amendments have been made in section 206C(2), 206C(3), 206C(5) & 206C(9) [Refer section 50(a)/(b)/(c)(i)/(e)(i)/(h) of the Finance (No. 2) Act, 2004].

(8) Under the amendment of section 206C(3), newly inserted proviso, w.e.f. 1-4-2005, provides that the person collecting tax on or after 1-4-2005 in accordance with the provisions of section 206C shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on 30th June, 30th September, 31st December and 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and setting forth such particulars as may be prescribed [Refer section 50(c)(ii) of the Finance (No. 2) Act, 2004].

(9) At present, section 206C(4) provides that any amount collected in accordance with the provisions of section 206C and paid u/s. 206C(3) shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and the credit shall be given to him for the amount so collected on the production of the certificate furnished u/s. 206C(5). Under the amendment, newly inserted proviso, w.e.f. 1-4-2005, provides that where any amount is collected u/s. 206C on or after 1-4-2005 and paid u/s. 206C(3) to the credit of the Central Government, the amount of tax collected and specified in the statement referred to in newly inserted 2nd proviso to section 206C(5) shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected in the assessment made under the Income-tax Act for the assessment year for which such income is assessable without the production of certificate [Refer section 50(d) of the Finance (No. 2) Act, 2004].

(10) At present, section 206C(5) provides that certificate shall be required to be furnished in case where the tax has been collected in accordance with provisions of section 206C. Under the amendment, w.e.f. 1-4-2005, such certificate shall not be required to be furnished where such tax has been collected on or after 1-4-2005 [Vide newly inserted 1st proviso to section 206C(5)]. Further, the prescribed income-tax authority or the person authorised by such authority referred to in section 206C(3) [Refer item 8 above] shall, within the prescribed time after the end of each financial year, prepare and deliver to the buyer or licensee or leasee, a statement in the prescribed form specifying the amount of tax collected and such other particulars as may be prescribed in the I.T. Rules [Vide newly inserted 2nd proviso to section 206C(5)] [Refer section 50(e)(ii) of the Finance (No. 2) Act, 2004].

(11) At present, section 206C(5A) provides that persons collecting tax u/s. 206C is required to prepare half-yearly returns for the period ending on 30th September and 31st March in each financial year, and deliver to the prescribed income-tax authority such returns in the prescribed form within the prescribed time. Under the amendment, w.e.f. 1-10-2004, such return is required to be prepared within the prescribed time after the end of each financial year (as against half-yearly) and such return can be delivered also to such other authority or agency for which the Board may frame a scheme [Refer section 50(f) of the Finance (No. 2) Act, 2004].

(12) Under the amendment, sections 206C(5B) and 206C(5C) have been substituted w.e.f. 1-4-2005 by newly inserted sections 206C(5B), 206C(5C) and 206C(5D). Newly inserted section 206C(5B) provides that any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, *may at his option,* deliver return, referred to in section 206C(5A), to the prescribed income-tax authority in accordance with scheme as may be notified by the Board, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme. However where the person collecting tax is a company or the Central Government or a State Government, such person shall deliver such returns on computer media under the said scheme. Newly inserted section 206C(5C) provides that a return filed on computer media shall be deemed to be a return for the purposes of section 206C(5A) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein. Newly inserted section 206C(5D) provides that where the Assessing Officer considers that the return delivered under section 206C(5B) is defective, he may intimate the defect to the person collecting tax

and give him an opportunity of rectifying the defect within a period of 15 days from the date of such intimation or within such further period which he may allow, on an application made in this behalf. If the defect is not rectified within the period allowed, such return filed will be treated as an invalid return and the provisions of the Income-tax Act shall apply as if such person had failed to deliver the return [Refer section 50(g) of the Finance (No. 2) Act, 2004].

(13) Under the amendment, w.e.f. 1-10-2004, section 203A is substituted by a new section 203A incorporating therein the existing provisions of section 203A (relating to tax deduction account number) and section 206CA (relating to tax-collection account number). W.e.f. 1-10-2004, in cases where a person has not been allotted a 'tax-deduction account number'/'tax-collection account number', he/it has to apply for a 'tax-deduction and collection-account number' under substituted section 203A. Consequential amendment has been made in section 206CA(2) by inserting proviso thereto [Refer sections 45 & 51 of the Finance (No. 2) Act, 2004].

(iii) Rates of deduction of tax at source from "Salaries" and for computation of "advance tax" during the financial year 2004-05: Assessment year 2005-06:

These rates are specified in Part III of the First Schedule to the Finance (No. 2) Act, 2004 [Refer pp. 36-37] and are the same as applicable to total (taxable) income for assessment year 2004-05 except that –

(a) in the case of all categories of assessees, where the total (taxable) income includes income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset, being equity shares in a company or units of an equity oriented fund and the transaction of sale of such equity shares or units is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force & such transaction is chargeable to securities transaction tax under that Chapter, the income-tax at the flat rate of 10% on such short-term capital gains is payable under newly inserted section 111A. Income-tax so payable is to be increased by a surcharge on such income-tax.

(b) in the case of all categories of assessees, aggregate of income-tax and surcharge, if any, chargeable at scheduled rates, and flat rates u/s. 111A & 112, is to be further increased by an additional surcharge (i.e., Education Cess) calculated at 2% of such income-tax and surcharge.

II. IMPORTANT AMENDMENTS IN THE INCOME-TAX ACT, 1961:

1. Amendment to definition of income:

1.1 *INCOME TO INCLUDE SUM OF MONEY (GIFT) EXCEEDING Rs. 25,000:*

[Insertion of section 2(24)(xiii) & section 56(2)(v) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer sections 3 & 13 of the Finance (No. 2) Act, 2004]

(A) Newly inserted section 2(24)(xiii) provides that any sum referred to in the newly inserted section 56(2)(v), will be included in the definition of income and will accordingly be included in the total income for and from assessment year 2005-06 and onwards.

(B) Newly inserted section 56(2)(v) provides that any sum of money exceeding Rs. 25,000 received without consideration (i.e., gift) by an individual or a Hindu undivided family from any person on or after 1-9-2004, the whole of such sum will be chargeable to income-tax under the head "Income from other sources" for and from assessment year 2005-06 and onwards.

However, proviso to section 56(2)(v) provides that provisions of section 56(2)(v) will not apply to any sum of money (gift) received –

(1) from any relative; or

(2) on the occasion of the marriage of the individual; or

(3) under a will or by way of inheritance; or

(4) in contemplation of death of the payer.

The *Explanation* to section 56(2)(v) defines the term "relative" as: (1) spouse of the individual; (2) brother or sister of the individual; (3) brother or sister of the spouse of the individual; (4) brother or sister of either of the parents of the individual; (5) any lineal ascendant or descendant of the individual; (6) any lineal ascendant or descendant of the spouse of the individual; and (7) spouse of the person referred to in (2) to (6).

2. Amendments to provisions relating to exemption from total income:

2.1 *WITHDRAWAL OF EXEMPTION OF INTEREST PAID/CREDITED ON OR AFTER 1-4-2005 IN RESPECT OF NON-RESIDENT (EXTERNAL) ACCOUNT:*

[Insertion of 2nd proviso in section 10(4)(ii) w.e.f. 1-4-2006 (assessment year 2006-07 and onwards). Refer section 5(a) of the Finance (No. 2) Act, 2004]

At present, interest income from Non-Resident (External) Account in any bank in India is exempt in the case of an individual who is a "person resident outside India" [as defined in section 2(q) of the Foreign Exchange Regulation Act, 1973] or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account.

Under the amendment, w.e.f. 1-4-2006 (assessment year 2006-07 and onwards), 2nd proviso inserted in section 10(4)(ii) provides that such interest paid or credited on the said Account, on or after 1-4-2005, will not be exempt.

2.2 *WITHDRAWAL OF EXEMPTION OF INTEREST PAYABLE ON OR AFTER 1-4-2005 IN RESPECT OF FOREIGN CURRENCY DEPOSITS:*

[Amendment of section 10(15)(iv)(fa) w.e.f. 1-4-2006 (assessment year 2006-07 and onwards). Refer section 5(c)(B) of the Finance (No. 2) Act, 2004]

At present, interest payable by a scheduled bank, to a non-resident or to a resident but not ordinarily resident on deposits in foreign currency is exempt where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

Under the amendment, w.e.f. 1-4-2006 (assessment year 2006-07 and onwards), the exemption is withdrawn on such interest payable on or after 1-4-2005.

2.3 *WITHDRAWAL OF EXEMPTION U/S. 10(15A) AND RE-INTRODUCTION OF EXEMPTION U/S. 10 (6BB):*

[Insertion of proviso in section 10(15A) and amendment of section 10(6BB) w.e.f. 1-4-2006 (assessment year 2006-07 and onwards). Refer section 5(d) and 5(b) of the Finance (No. 2) Act, 2004]

(A) At present, lease rent received for leasing aircraft or aircraft engine by the Government of a foreign State or a foreign enterprise, from an Indian company engaged in the business of operation of aircraft, under an agreement, not being an agreement entered into between 1-4-1997 and 31-3-1999 and approved by the Central Government, is exempt u/s. 10(15A). Under the amendment, w.e.f. 1-4-2006 (assessment year 2006-07 and onwards), proviso inserted in section 10(15A) provides that exemption will not be available in respect of all such agreements entered into on or after 1-4-2005.

(B) At present, tax liability on lease rent of aircraft or aircraft engine from the Government of a foreign State or a foreign enterprise by an Indian company engaged in the business of operation of aircraft under an approved agreement entered into after 31-3-1997 but before 1-4-1999 and tax on such income is payable by such Indian company, the tax so paid is exempt u/s. 10(6BB). Under the amendment, w.e.f. 1-4-2006, exemption of tax so paid will be available on all such agreements entered into on or after 1-4-2005.

2.4 *FAMILY PENSION RECEIVED BY THE FAMILY MEMBERS OF ARMED FORCES, EXEMPTED:*

[Insertion of new section 10(19) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 5(e) of the Finance (No. 2) Act, 2004]

Newly inserted section 10(19), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides for exemption of family pension received by the widow or children or nominated heirs of a member of the armed forces (including para-military forces) of the Union, where the said member dies in the course of operational duties, in such circumstances and conditions, as may be prescribed.

2.5 *EXEMPTION OF CAPITAL GAINS ON COMPENSATION RECEIVED ON COMPULSORY ACQUISITION OF AGRICULTURAL LAND IN CERTAIN URBAN AREAS:*

[Insertion of new section 10(37) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 5(h) of the Finance (No. 2) Act, 2004]

Please see Para 6.1 on page 46.

2.6 *EXEMPTION OF LONG-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES IN A COMPANY OR UNITS OF AN EQUITY ORIENTED FUND:*

[Insertion of new section 10(38) w.e.f. 1-4-2005 (assessmemt year 2005-06 and onwards). Refer section 5(h) of the Finance (No. 2) Act, 2004]

Please see Para 6.2 on page 46.

2.7 *EXEMPTION IN RESPECT OF GIFTS IN CERTAIN CASES:*
Please see Para 1.1(B) on page 41.

2.8 *DEFINITION OF VENTURE CAPITAL UNDERTAKING, MODIFIED:*

[Substitution of clause (c) of the Explanation 1 & omission of Explanation 2 in section 10 (23FB) w.e.f. 1-10-2004. Refer section 5(f) of the Finance (No. 2) Act, 2004]

At present, clause (c) of the *Explanation 1* in section 10(23FB) defines the expression "venture capital undertaking" to mean a domestic company whose shares are not listed on the recognised stock exchange in

India and which is engaged in the business of providing services, production or manufacture of an article or thing but does not include such activities or sectors which are specified, with the approval of the Central Government, by the Securities Exchange Board of India, by notification in this behalf.

Under the amendment, w.e.f. 1-10-2004, substituted clause (c) defines that "venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities Exchange Board of India Act, 1992 and notified by the board for the purpose of this clause. Consequently, existing *Explanation 2* has been omitted w.e.f. 1-10-2004.

2.9 *INCOME OF INFRASTRUCTURE CAPITAL COMPANY EXEMPT U/S. 10(23G) TO BE INCLUDED IN COMPUTING BOOK PROFIT U/S. 115JB:*

[Insertion of proviso in section 10(23G)/amendment of section 115JB w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 5(g) & 28 of the Finance (No. 2) Act, 2004]

At present, income by way of dividends, other than dividend referred to in section 115-O, interest or long-term capital gains of an infrastructure capital company (ICC) is exempt u/s. 10(23G) [For details, refer sub-item (2) of item (O) on page 161]. Consequently such income is exempt for the purpose of computing book profit for the levy of minimum alternate tax under clauses (f)/(ii) of *Explanation* to section 115JB [For details, refer item (A) on page 132].

Newly inserted proviso in section 10(23G), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that such income of the ICC shall be taken into account in computing the book profit and income-tax payable u/s. 115JB. Consequent amendments have been made in the definition of book profit chargeable u/s. 115JB with effect from the said assessment year.

3. Amendment to provisions relating to income of charitable or religious trusts or institutions:

3.1 *COMMISSIONER EMPOWERED TO CANCEL REGISTRATION U/S. 12AA:*

[Insertion of new sub-section (3) in section 12AA w.e.f. 1-10-2004. Refer section 6 of the Finance (No. 2) Act, 2004]

At present, under section 12AA(1)(b), the Commissioner is empowered to grant or refuse registration of charitable or religious trust or institution [For details, refer 2nd para of item (2) on page 63]. Newly inserted sub-section (3) in section 12AA, w.e.f. 1-10-2004, provides that where a charitable or religious trust or institution has been granted registration u/s. 12AA(1)(b) and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, he may, after affording reasonable opportunity of hearing to it, cancel the registration by passing an order in writing.

4. Amendments relating to computation of salary income:

4.1 *PROVISIONS TO GIVE EFFECT TO THE NEW PENSION SCHEME APPLICABLE TO EMPLOYEES ENTERING THE SERVICE OF THE CENTRAL GOVERNMENT ON OR AFTER 1-1-2004:*

[Insertion of: clause (iii) in section 7, sub-clause (viii) in section 17(1) & section 80CCD w.e.f. 1-4-2004 (assessment year 2004-05 and onwards). Refer section 4, 7 & 15 of the Finance (No. 2) Act, 2004]

A new pension scheme is applicable to employees entering the service of the Central Government on or after 1-1-2004. Under this scheme the employee will make a contribution to the fund set up under the scheme. The Central Government will make a matching contribution to the fund every year.

Assessment year 2004-05 and onwards:

(A) Newly inserted clause (iii) in section 7 provides that the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referrd to in section 80CCD, will be deemed to be the income received in the previous year.

(B) Newly inserted sub-clause (viii) in section 17(1) provides that the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD will be included in the salary of the employee in the previous year.

(C) Newly inserted section 80CCD provides that a deduction from the gross total income of an employee of the Central Government employed on or after 1-1-2004, will be allowed for employee's contribution paid or deposited in the previous year in the account under a pension scheme notified or as may be notified by the Central Government. The maximum limit for such deduction is 10% of his salary in the previous year [Section 80CCD(1)]. Similarly, contribution of the Central Government to the said account of the employee referred to in section 80CCD(1), will also be deducted in the previous year of such contribution. The maximum limit for deduction is 10% of salary of the employee in the previous year [Section 80CCD(2)]. For the purposes of section 80CCD, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other

allowances and perquisites [*Explanation* to section 80CCD]. Any amount standing to the credit of the employee in his account referred to in section 80CCD(1), in respect of which a deduction has been allowed u/s. 80CCD(1)/(2), together with the accruals thereon will be taxable in the previous year when the Central Government employee or his nominee receives the same, either in whole or in part: (a) on account of closure or his opting out of the said pension scheme; or (b) as pension received from the annuity plan purchased or taken on such closure or opting out [Section 80CCD(3)]. Where any amount paid or deposited by the employee has been allowed as a deduction u/s. 80CCD(1), no rebate with reference to such amount shall be allowed u/s. 88 [Section 80CCD(4)].

4.2 *BUSINESS LOSS CANNOT BE SET OFF AGAINST INCOME FROM SALARY:*

[Insertion of new sub-section (2A) in section 71 w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 14 of the Finance (No. 2) Act, 2004]

At present, loss under the head "Profits and gains of business or profession" can be set off u/s. 71 against income under the head "Salaries" in the same assessment year. Under the amendment, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), new sub-section (2A) in section 71 provides that where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income (i.e., salary income).

5. Amendments relating to computation of business or professional income:

5.1 *LIMIT FOR INCREASE IN INSTALLED CAPACITY FOR THE PURPOSES OF ADDITIONAL DEPRECIATION, REDUCED:*

[Amendment of 1st proviso to section 32(1)(iia) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 8 of the Finance (No. 2) Act, 2004]

At present, an additional depreciation @ 15% of the actual cost of the new plant and machinery is allowed, subject to conditions [Refer item (xv) on page 115]. One of the condition for an industrial undertaking existing before 1-4-2002 is that the additional depreciation will be allowed in the previous year in which it achieves the substantial expansion by way of increase in installed capacity (i.e., capacity of production as existing on 31-3-2002) by not less than 25%. Under the amendment of 1st proviso to section 32(1)(iia), the said increase in installed capacity has been reduced from 25% to 10% in relation to assessment year 2005-06 and subsequent years.

5.2 *DEDUCTION U/S. 33AC WITHDRAWN & TONNAGE TAX IN CASE OF SHIPPING COMPANIES, INTRODUCED:*

[Insertion of 3rd proviso to section 33AC(1) & New Chapter XII-G (Sections 115V to 115VZC) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 9 & 30 of the Finance (No. 2) Act, 2004]

At present, a deduction not exceeding 100% of profits derived from the business of operation of ships is allowed to an assessee being a government company or an Indian company engaged in the business of operation of ships, subject to conditions [Refer item (6) on page 119]. Under the amendment, 3rd proviso inserted in section 33AC(1) provides that no deduction shall be allowed u/s. 33AC in respect of such income in relation to assessment year 2005-06 and subsequent years.

In lieu of withdrawal of deduction u/s. 33AC, a new Chapter XVII-G has been inserted w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). This Chapter consisting of sections 115V to 115VZC makes special provisions for presumptive income in respect of qualifying ships of qualifying shipping companies based on tonnage of the ship. The notional income thus determined is taxed at the normal rate applicable to a company for the year. This tax will be payable even if there is loss in any year, since it is based on ship's tonnage and not on its revenue. For availing this concessional tax scheme, the company has to satisfy other conditions prescribed in the said Chapter. A shipping company is given an option to be taxed under this Chapter (i.e., tonnage tax scheme) or in the normal manner under other provisions of the Income-tax Act. Once the option is excercised, it will be valid for 10 years. If a shipping company opts out of the scheme or if the qualifying shipping company misuses the scheme, such company will be excluded from the scheme and it will be debarred from re-entry into the scheme for 10 years. *Section 115V* pertains to definitions. *Section 115VA* relates to computation of profits and gains from the business of operating qualifying ships. *Section 115VB* defines operating ships. *Section 115VC* defines qualifying company. *Section 115VD* defines qualifying ship. *Section 115VE* lays down manner of computation of income under tonnage tax scheme. *Section 115VF* prescribes that tonnage income shall be deemed to be profits under the head "Profits and gains of business or profession". *Section 115VG* prescribes manner of computation of tonnage income. *Section 115VH* prescribes

manner for calculation of tonnage income in case of joint operation, etc. *Section 115V-I* prescribes manner of computing relevant shipping income of a tonnage company. *Section 115VJ* prescribes manner of treatment of common costs. *Section 115VK* pertains to method of computing depreciation u/s. 115VL(iv). *Section 115VL* prescribes for general exclusion of deduction and set off of losses/depreciation in computing tonnage income. *Section 115VM* prescribes that loss accrued to a company, before entering into the scheme, attributable to tonnage tax business, cannot be set off against tonnage income. *Section 115VN* relates to chargeable gains from transfer of tonnage tax assets. *Section 115V-O* prescribes that book profit or loss of a tonnage tax company shall be excluded from the book profit of the company for the purposes of section 115JB. *Section 115VP* prescribes method and time of opting for tonnage tax scheme. *Section 115VQ* prescribes period for which tonnage tax option to remain in force. *Section 115VR* prescribes manner of renewal of tonnage tax scheme. *Section 115VS* relates to prohibition to opt for tonnage tax scheme in certain cases. *Sections 115VT to VX* relates to conditions for applicability of tonnage tax scheme. *Sections 115VY & VZ* relates to amalgamation and demerger of shipping companies. *Section 115VZA* relates to effect of temporarily ceasing to operate qualifying ships. *Sections 115VZB & 115VZC* relates to provisions of this Chapter not to apply in certain cases. Consequential amendments have been made in sections 246A(1)(a) & 253(1) [Vide sections 53 & 54 of the Finance (No. 2) Act, 2004].

5.3 *FURTHER CONDITION FOR WITHDRAWAL OF APPROVAL/NOTIFICATION BY THE NATIONAL COMMITTEE:*

[Substitution of sections 35AC(4) & 35AC(5) w.e.f. 1-10-2004. Refer section 10 of the Finance (No. 2) Act, 2004]

At present, an assessee carrying on business or profession is entitled u/s. 35AC to deduct payment made for financing any eligible project or scheme for promoting social and economic welfare of, or uplift of, the public, subject to conditions [For details refer item (11) on page 122]. The National Committee (NC) is empowered to withdraw the approval or to withdraw the notification issued approving a project or scheme for defaults committed u/s. 35AC(4) & 35AC(5). Under the amendment, w.e.f. 1-10-2004, a further condition, in addition to existing condition for withdrawal of approval has been prescribed. The association or institution should furnish to the NC after the end of each financial year, a report in the prescribed form setting forth the prescribed particulars within the prescribed time. The approval can be withdrawn, for failure to furnish the said report, by the NC after giving reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution. A copy of the order withdrawing the approval is to be furnished by the NC to the Assessing Officer. Similarly, the notification issued for eligible project or scheme also can be withdrawn for failure to furnish the prescribed annual report in the prescribed manner under substituted section 35AC(5), after issue of show cause notice as above and a copy of the notification by which the notification of the eligible project or scheme is withdrawn is to be furnished to the Assessing Officer.

5.4 *AMOUNTS NOT DEDUCTIBLE AS BUSINESS/PROFESSIONAL EXPENDITURE U/S. 40, AMENDED:*

[Insertion of new sub-clauses (ia) & (ib) in/substitution of sub-clause (i) of, section 40(a) w.e.f. 1-4-2004 (assessment year 2004-05 and onwards). Refer section 11 of the Finance (No. 2) Act, 2004]

At present, section 40(a) lays down the items of expenditure not deductible against income from business & profession [For details, refer sub-items (1) to (3) of item (ii) on page 130].

Newly inserted sub-clause *(ia)* in section 40(a), w.e.f. 1-4-2004 (assessment year 2004-05 and onwards), provides that any interest, commission or brokerage, fees for professional services or fees for technical services payable to a resident, or amounts payable to a resident contractor or sub-contractor for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B, will not be allowed a deduction if such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed u/s. 200(1). However, in respect of such sum, if tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of time prescribed u/s. 200(1), such sum will be allowed as a deduction in computing the income of the previous year in which such tax has been paid. For the definition of: (1) "commission or brokerage", refer *Explanation* to section 194H; (2) "fees for technical services", refer *Explanation* 2 to section 9(1)(vii); (3) "professional services", refer *Explanation* to section 194J; and (4) "work", refer *Explanation* III to section 194C.

Newly inserted sub-clause (ib) in section 40(a), w.e.f. 1-4-2004, provides that any sum paid on account of securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004[Refer Para 12.1 on page 342] will not be allowed as deduction in computing the income from business or profession. Also refer Para 9.3 on page 339.

For the notes on sub-clause (i) of section 40(a), refer sub-item (1) of item (iii) on page 130. Amendment of said sub-clause (i), w.e.f. 1-4-2004 (assessment year 2004-05 and onwards), provides that in respect of specified sums on which tax is deductible at source under Chapter XVII-B, will not be allowed a deduction if such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed u/s. 200(1). However, in respect of such sum, if tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of time prescribed u/s. 200(1), such sum will be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

5.5 *INCOME OF INFRASTRUCTURE CAPITAL COMPANY EXEMPT U/S. 10(23G) TO BE INCLUDED IN COMPUTING BOOK PROFIT U/S. 115JB:*

[Amendment of Explanation to section 115JB w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 28 of the Finance (No. 2) Act, 2004]

Please refer Para 2.9 on page 43.

6. Amendments relating to computation of capital gains:

6.1 *EXEMPTION OF CAPITAL GAINS ON COMPENSATION RECEIVED ON COMPULSORY ACQUISITION OF AGRICULTURAL LAND IN CERTAIN URBAN AREAS:*

[Insertion of new section 10(37) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 5(h) of the Finance (No. 2) Act, 2004]

At present, agricultural land in certain urban areas is treated as capital asset u/s. 2(14)(iii) [For details, refer sub-item (8) of item (1)(a) on page 138]. In case of transfer of such land by way of compulsory acquisition, capital gains is chargeable u/s. 45(5) [For details, refer sub-item (f) of item 2 on page 141].

Newly inserted section 10(37), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that in the case of an individual or a HUF, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land situated in urban areas specified in section 2(14)(iii) shall be exempt, subject to conditions that: (1) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such HUF or individual or a parent of his; (2) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India; and (3) such income has arisen from the compensation or consideration for such transfer received on or after 1-4-2004. "Compensation or consideration" includes compensation or consideration enhanced or further enhanced by any court, tribunal or other authority.

6.2 *EXEMPTION OF LONG-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES IN A COMPANY OR UNITS OF AN EQUITY ORIENTED FUND:*

[Insertion of new section 10(38) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 5(h) of the Finance (No. 2) Act, 2004]

At present, long-term capital gains arising on transfer of equity shares in a company or units of an equity oriented fund is taxed @ 20%/10% u/s. 112 [For details, refer item 7 on page 162].

Newly inserted section 10(38), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund is exempt, where the transaction of sale of such equity share or unit is entered into on or after the date on which the Securities Transaction Tax [Refer Para 12.1 on page 342] as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004 comes into force and such transaction is chargeable to securities transaction tax under that Chapter. "equity oriented fund" means a fund where the investible funds are invested by way of equity share in domestic companies to the extent more than 50% of the total proceeds of such fund; and the fund has been set up under a scheme of a Mutual Fund specified u/s. 10(23D).The percentage of equity share holding of the fund is to be computed with reference to the annual average of the monthly averages of the opening and closing figures.

6.3 *SHORT-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES IN A COMPANY OR UNITS OF AN EQUITY ORIENTED FUND, CHARGEABLE TO TAX AT FLAT RATE:*

[Insertion of new section 111A and amendment of section 115AD(1)(ii) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer sections 26 & 27 of the Finance (No. 2) Act, 2004]

At present, short-term capital gains arising from the transfer of equity shares in a company or units of an equity oriented fund is to be included in the total (taxable) income and tax is payable thereon at the scheduled applicable rates.

Newly inserted section 111A, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that in the case of an assessee, any income arising from the transfer of a short-term capital asset, being an equity share in a company or a unit of an equity oriented fund and the transaction of sale of such equity share or unit is entered into on or after the date on which the Securities Transaction Tax [Refer Para 12.1 on page 342] as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004 comes into force & such transaction is chargeable to securities transaction tax under that Chapter, such short-term capital gains will be taxed at the flat rate of 10% as I.T. The total (taxable) income as reduced by such short-term capital gains and long-term capital gains, income-tax on such reduced total income is payable at the scheduled applicable rates.

In the case of an individual or a HUF, being a resident, to whom the basic exemption of Rs. 50,000 is available, if the total (taxable) income other than such short-term capital gains is less than the basic exemption limit of Rs. 50,000, the said short-term capital gains will be reduced by the short fall [i.e., difference between exemption limit Rs. 50,000 and other income] and income-tax at the flat rate of 10% will be applied on the balance of such short-term capital gains. The deduction under Chapter VI-A will be on gross total income as reduced by such short-term capital gains [Section 111A(2)].The tax rebate u/s. 88 will be on the total (taxable) income as reduced by such short-term capital gains [Section 111A(3)]. For the definition of the term "equity oriented fund", refer Para 6.2 above].

At present, in the case of Foreign Institutional Investor, short-term capital gains arising on transfer of securities (other than units referred to in section 115AB) is chargeable to income-tax at the flat rate of 30% as I.T. u/s. 115AD(1)(ii). Under the amendment, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), proviso inserted in section 115AD(1)(ii) provides that the amount of income tax calculated on income by way of short-term capital gains referred to in section 111A shall be at the flat rate of 10%, instead of 30%.

6.4 *FOR THE PURPOSE OF COMPUTATION OF CAPITAL GAINS, DEDUCTION NOT ALLOWABLE FOR SECURITIES TRANSACTION TAX PAID:*

[Insertion of 5th proviso in section 48 w.e.f. 1-4-2005 (assessement year 2005-06 and onwards). Refer section 12 of the Finance (No. 2) Act, 2004]

At present, section 48 provides for mode of computation and deductions [For details, refer item 4 on page 144]. Under the amendment, 5th proviso inserted in section 48, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that deduction will not be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 [Refer Para 12.1 on page 342].

7. Amendment relating to computation of income from other sources:

7.1 For gist of new clause (v) inserted in section 56(2) and new section 10(19), refer para 1.1(C) & 2.4 on page 41 & 42.

8. Amendments to provisions pertaining to deduction from gross total income:

8.1 **Section 80CCD** provides for deduction in respect of contribution to pension scheme of Central Government [For notes, refer para 4.1(C) on page 43].

8.2 **Section 80DD** provides for deduction in respect of maintenance including medical treatment of a dependant who is a person with disability [For details, refer item (iii) on page 211]. For amendments made in section 80DD, refer section 16 of the Finance (No. 2) Act, 2004.

(A) At present, "disability" is defined in clause (c) of the *Explanation* to section 80DD [Refer footnote No. 3 on page 212]. Under the amendment of said clause (c), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), "disability" shall also include "autism", "cerebral palsy" and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

(B) At present, "medical authority" is defined in clause (e) of the *Explanation* to section 80DD [Refer footnote No. 7 on page 212]. Under the amendment of the said clause (e), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), medical authority shall also include such other medical authority notified for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

(C) At present, "person with disability" is defined in clause (f) of the *Explanation* to section 80DD [Refer footnote No. 3 on page 212]. Under the amendment of the said clause (f), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), "person with disability" shall also include a person with disability referred to in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

(D) At present, "person with severe disability" is defined in clause (g) of the *Explanation* to section 80DD [Refer footnote No. 3 on page 212]. Under the substituted clause (g), w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), "person with severe disability" shall also include a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

8.3 **Section 80-IA** provides for deduction in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc. [For details, refer Chart I on page 234]. For amendments made in section 80-IA, refer section 17 of the Finance (No. 2) Act, 2004].

(A) At present, the deduction to power companies is available only in respect of new units [For details, refer item (4) & (5) of Chart I on page 234]. Under the amendment of section 80-IA(2) and new sub-clause (c) inserted in section 80-IA(4)(iv), the deduction @ 100% will also be available to old units which undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines during the period beginning on 1-4-2004 and ending on 31-3-2006. "Substantial renovation and modernisation" is defined to mean an increase in the plant and machinery in the network of transmission or distribution lines at least by 50% of the book value of such plant and machinery as on 1-4-2004.

(B) The conditions for deduction u/s. 80-IA(4)(iv) are specified in section 80-IA(3). Under the amendment of section 80-IA(3) the said conditions have been extended also to an undertaking providing telecommunications service referred to in section 80-IA(4)(ii) [Refer item 2 of Chart I on page 234]. The newly inserted proviso in section 80-IA(3) provides that the conditions contained in section 80-IA(3) will not apply to transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board, whether or not such transfer is in the pursuance of the splitting up or reconstruction or reorganisation of the Board. The amendments to section 80-IA(3) are applicable in relation to assessment year 2005-06 and subsequent years.

(C) At present, deduction is allowable to an undertaking which provides telecommunication services, etc., specified in section 80-IA(4)(ii), at any time after 1-4-1995 but before 31-3-2004 [For details, refer item 2 of Chart I on page 234]. Under the amendment of section 80-IA(4)(ii), w.e.f. 1-4-2005, the said terminal date has been extended from 31-3-2004 to 31-3-2005.

8.4 Section 80-IB provides for deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings [For details, refer Chart II on pp. 235-236]. For amendments made in section 80-IB, refer section 18 of the Finance (No. 2) Act, 2004.

(A) At present, deduction is allowed to an industrial undertaking referred to in section 80-IB [For details, refer items (3) & (4) of Chart II on page 235]. Newly inserted 4th proviso to section 80-IB(4) provides that, w.e.f. 1-4-2005, the terminal date for industrial undertaking in the State of Jammu & Kashmir for commencing manufacture or production of articles or things or operation of cold storage plant(s), has been extended from 31-3-2004 to 31-3-2005. Newly inserted 5th proviso to section 80-IB(4) provides that w.e.f. 1-4-2005, deduction u/s. 80-IB(4) will not be allowed to an industrial undertaking in the State of Jammu & Kashmir which is engaged in the manufacture or production of any article or thing specified in Part C of the Thirteenth Schedule. The said Part C has been inserted w.e.f. 1-4-2005 by section 64(b) of the Finance (No. 2) Act, 2004. The articles or things specified therein are: (1) Cigarettes/cigars of tobacco, manufactured tobacco and substitutes; (2) Distilled/brewed alcoholic drinks; & (3) Aerated branded beverages and their concentrates.

(B) At present, any company registered in India carrying on business of scientific research and development is allowed deduction if such company is approved by the prescribed authority after 31-3-2000 but before 1-4-2004 [Section 80-IB(8A)] (Refer item 12 of Chart II on page 236). Under the amendment, w.e.f. 1-4-2005, the terminal date of 1-4-2004 has been extended to 1-4-2005.

(C) At present, an undertaking developing and building housing projects is allowed deduction u/s. 80-IB(10) [For details, refer item 10 of Chart-II on page 235]. Under the amendment, section 80-IB(10) is substituted w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). The amendments effected by the substituted section 80-IB(10) are–

1. The terminal date for approval of developing and building housing projects by a local authority has been extended from 31-3-2005 to 31-3-2007 subject to conditions that: (a) such undertaking has commenced or commences development and construction of the housing project on or after 1-10-1998 and completes such construction, in a case where a housing project: (i) has been approved by the local authority before 1-4-2004, on or before 31-3-2008; (ii) has been, or, is approved by the local authority on or after 1-4-2004, within four years from the end of the financial year in which the housing project is approved by the local authority; (b) the project is on the size of a plot of land which has a minimum area of one acre. However, conditions specified in (a) & (b) will not apply in the case of a housing project carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings in areas declared to be slum areas under any law and such scheme is notified by the Board in this behalf [Section 80-IB(10)(a)/(b)].

2. the residential unit has a maximum built-up area of 1000 square feet where such residential unit is situated within the cities of Delhi or Mumbai or within 25 kilometres from the municipal limits of these cities and 1500 square feet at any other place [Section 80-IB(10)(c)]. The built-up area means the inner measurements of the residential unit at the floor level, including the projections and the balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units [Section 80-IB(14)(a)].

3. The built-up area of the shops and other commercial establishments included in the housing project does not exceed 5% of the aggregate built-up area of the housing project or 2000 square feet, whichever is less [Section 80-IB(10)(d)]. For definition of built-up area, refer 2 above.

Explanation to section 80-IB(10)(a) provides that: (a) in a case where the approval of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority; (b) the date of completion of construction of the housing project will be the date on which the completion certificate in respect of such housing project is issued by the local authority.

(D) At present, an undertaking deriving profit from the integrated business of handling, storage & transportation of food grains is allowed deduction u/s. 80-IB(11A) [For details, refer item 14 of Chart II on page 236]. Under the amendment, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), deduction u/s. 80-IB(11A) has also been extended to business of processing, preservation and packaging of fruits or vegetables.

[Concluded on pp. 339-342]

SHORT NOTES ON THE INCOME-TAX ACT, 1961:

I. GENERAL

[From assessment year 2001-02 and onwards]

The Indian Income-tax Act, 1922 which was in force upto and including the assessment year 1961-62 was repealed with effect from 1st April, 1962 and in its place a new Act called the Income-tax Act, 1961 was introduced which is the operative Act for and from the assessment year 1962-63. Since its introduction, the new Act has undergone innumerable changes by way of amendments, substitutions, deletions and insertions of various provisions so much so that it is difficult to keep track of the frequent changes made and the years from which these have become operative. Salient features of the Act are explained in a very simple language so as to make them understandable in relation to assessment year 2001-02 and subsequent years.

(i) Assessment

The Income-tax Act is a machinery for computing the total income of the previous year from various sources as classified in section 14. Such computation or assessment is made after allowing various exclusions, exemptions and deductions as provided in the Act. The Income-tax Act does not, however, prescribe the rates at which tax is to be charged. Section 4 of the Income-tax Act lays down that income-tax shall be charged for any assessment year in respect of the total income of the previous year computed under the Income-tax Act at the rates prescribed by the Finance Act which is passed every year by the Parliament. Thus, while the total income is computed under the Income-tax Act which is a permanent enactment, the tax payable on such income has to be worked out at the rates laid down in the Finance Act which is an annual enactment. An assessment, therefore, comprises of two stages: (1) computation of total income, and (2) determination of the tax payable thereon. When both these stages are completed, an assessment is said to have been made.

As the Finance Bill is usually passed by the Parliament and receives the assent of the President long after 1st April, the question arises "what would be the effective rates at which tax has to be charged for the current assessment year during the pendancy of the bill?" The answer to this question is provided in section 294 of the Income-tax Act which lays down that the effective rates in that case would be the rates in force in the preceding assessment year or the rates proposed in the Finance Bill in respect of the current assessment year, whichever is more favourable to the assessee.

To sum up, the tax in relation to the income of any assessment year is to be charged with reference to the rates enacted by the Finance Act of that year. To illustrate, if the assessments in respect of the earlier assessment years 2002-03 and 2003-04 are completed during the financial year 2004-05, the rates at which tax is to be charged for the said assessment years would be the rates laid down under Part I of the First Schedule to the Finance Act, 2002 and Part I of the First Schedule to the Finance Act, 2003, respectively.

(ii) Assessment year

[Section 2(9)]

The question then arises as to what is an assessment year? In the Income-tax Act, the Income-tax year is described as assessment year, that is, the year in which the income of the previous year which ended before the commencement of the assessment year, is to be assessed. The assessment year comprises of a period of twelve months corresponding to a financial year, commencing from 1st April and ending on 31st March. Thus, the assessment year 2004-05 commenced from 1st April, 2004 and would end on 31st March, 2005.

(iii) Previous year

[Section 3]

There will be only one previous year for all assessees ending on 31st March for all sources of income. In other words the financial year immediately preceding the assessment year shall be the uniform previous year. In the case of newly set up business or profession during the financial year, the previous year will end on 31st March, even though the period comprised in the previous year may be less than 12 months. For example, an assessee has started a new business on 1-7-2003, his previous year for the assessment year 2004-05 would be of 9 months beginning from 1-7-2003 and ending on 31-3-2004 and for the subsequent assessment years his previous year will consist of 12 months beginning with 1st April and ending on 31st March [Proviso to section 3].

(iv) Assessee

[Section 2(7)]

The assessee is a person by whom any tax or any other sum of money (such as interest, penalty) is payable under the Income-tax Act or in respect of whom any proceeding under the Act has been taken for the assessment of his income or loss or of the income or loss of any other person in respect of which he is assessable or of the amount of refund due to him or to such other person. It also includes every person deemed to be an assessee under Chapter XV of the Income-tax Act, 1961.

Under section 2(31) of the Income-tax Act, persons (i.e., assessees) are divided into the following categories:

(i) Individual;

(ii) Hindu undivided family which consists of all persons lineally descended from a common male ancestor and is assessable in respect of income derived from the joint family corpus not being the income earned by its individual members in their individual and personal capacity;

(iii) Company [As defined under section 2(17) of the Income-tax Act (e.g., any Indian company)];

(iv) Firm [A partnership of two or more persons (but not exceeding 20 persons) carrying on a business or profession constituted under the Indian Partnership Act, 1932];

(v) Association of persons or a body of individuals (i.e., combination of persons formed for promoting a joint venture or joint enterprise, executors of an estate, trustees of a trust, etc.);

(vi) Local authority (e.g., Municipality, Local Boards, etc.); and

(vii) Every artificial juridical person, not falling in any of the preceding categories (i.e., a Hindu deity).

From assessment year 2002-03 and onwards, 'person' includes an association of persons or a body of individuals or a local authority or an artificial juridical person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains [*Explanation* to section 2(31)].

(v) Residential status of an assessee:

(Section 6)

The income liable to tax in the hands of an assessee is determined on the basis of residential status. For this purpose, the assessees are divided into the following two categories:

(i) Resident in India, and

(ii) Non-resident in India.

Individuals and Hindu undivided families who are resident in India are again classified as:

(*a*) Ordinarily resident, and

(*b*) Not ordinarily resident.

1. ORDINARILY RESIDENT IN INDIA:

(A) IN RESPECT OF "INDIVIDUALS"

Section 6 of the Income-tax Act, deals with residence in India. The residential status of an individual would be determined as under:

(1) An individual will be treated as resident in India in any previous year if he fulfills any of the following two conditions laid down in section 6(1):

(a) he is in India in that year for a period or periods amounting in all to 182 days or more; or

(b) having within the four years preceding that year been in India for a period or periods amounting in all to 365 days or more and has been in India for 60 days or more in that year.

(2) Under *Explanation* to section 6(1) of the Income-tax Act, the residential status of an individual who is rendering service outside India and who visits India during leave or vacation in any previous year or an individual who is outside India and who comes on a visit to India in any previous year will be determined as under:

(*a*) an *Indian citizen* who leaves India in any previous year for the purposes of employment outside India or as a crew member of an Indian ship[1] would be treated as resident in India if the period of his stay in India in that year amounts to 182 days or more [instead of 60 days as stated in 1(b) above]. Conversely, if the period of his stay in India is less than 182 days, he will be treated as non-resident for that year and his foreign income would not attract tax liability.

(*b*) an *Indian citizen or a person of Indian origin*[2] who resides outside India and who comes on a visit to India in any previous year will be treated as resident in India if his stay in India in that year amounts to 182 days or more [instead of 60 days as stated in 1(b) above]. Conversely, he will be treated as non-resident if the period of his stay in India in that year is less than 182 days.

(3) An individual (whether Indian citizen or not) who is outside India and who comes on a visit to India in any previous year will be treated as "non-resident" in India if his stay in India in that previous year is less than 182 days subject to the condition that during the preceding four previous years his stay in India does not amount to 365 days or more.

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1. W.e.f. 1-4-1990, such crew members would be treated as "non-resident" in India if they are on board such ship outside the territorial waters of India for 182 days or more during any year — Vide Circular No. 586, dt. 28-11-1990 [186 ITR (St.) 167].

2. A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India [*Explanation* to section 115C(e)].

EXAMPLES: (1) Mr. A who was abroad, returned to India on 1-7-2003 and again left India on 10-1-2004. Since his stay in India during the previous year exceeds 181 days (i.e., 194 days), he will be regarded as "resident" for the assessment year 2004-05 [Section 6(1)(a)]. However, if his stay in India during the preceding four previous years (1999-2000 to 2002-03) was less than 365 days and his stay in India during the previous year 2003-04 was also less than 182 days, he will be regarded as "non-resident" for the financial year ending on 31-3-2004.

(2) Mr. A who is an Indian citizen or a person of Indian origin came on a visit to India on 1-7-2003. He left India on 10-1-2004 i.e., after a stay of more than 181 days (i.e., 194 days). Prior to 1-4-2003, he was in India for over 365 days during the four previous years 1999-2000 to 2002-03. He will be regarded as "resident" for the assessment year 2004-05 as his stay in India during the previous year 2003-04 is of more than 181 days [Section 6(1)(c) read with *Explanation*].

(3) Mr. A who is an Indian citizen or a person of Indian origin came on a visit to India on 1-7-2003. He left India on 25-12-2003 i.e., after a stay of 178 days. Prior to 1-4-2003, he was in India for over 365 days during the preceding four previous years 1999-2000 to 2002-03. Mr. A will be regarded as "non-resident" for the assessment year 2004-05 as his stay in India during the previous year 2003-04 was less than 182 days [Section 6(1)(c) read with *Explanation*].

(4) Mr. A who is an Indian citizen leaves India on 25-9-2003, as a member of the crew of an Indian ship or for the purposes of employment outside India and comes to India on a visit after 1st April, 2004. He was in India for over 365 days during the preceding four previous years 1999-2000 to 2002-03. For the assessment year 2004-05, Mr. A will be regarded as "non-resident" despite the fact that he was in India for a period of more than 365 days in the preceding four previous years and was in India for more than 60 days but less than 182 days during the previous year 2003-04 [Section 6(1)(c) read with *Explanation*].

(B) IN RESPECT OF "HUF, FIRM & OTHER ASSOCIATION OF PERSONS":

A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year except where during that year the control and management of its affairs is situated wholly outside India [Section 6(2)].

(C) IN RESPECT OF A "COMPANY":

A company is said to be resident in India in any previous year if it satisfies any of the following two conditions:

(i) it is an Indian company, or

(ii) during that year, the control and management of its affairs is situated wholly in India [Section 6(3)].

2. NON-RESIDENT:

(a) An individual who does not satisfy both the conditions as mentioned on page 50 for residence in India as laid down in section 6(1) will be treated as "non-resident" in that previous year.

EXAMPLE: Mr. A, who is neither a citizen of India nor a person of Indian origin, was in India for over 365 days during the financial years from 1999-2000 to 2002-03. However, he did not visit India during the financial year 2003-04 except for 59 days. In this case, Mr. A will be regarded as "non-resident" for the assessment year 2004-05, as his stay in India during the financial year 2003-04 was less than 60 days.

(b) A Hindu undivided family, firm or other association of persons will be treated as "non-resident" in India in any previous year if the control and management of its affairs is situated wholly outside India during that year.

(c) A company will be treated as "non-resident" in India in any previous year if it is not an Indian company and also if the control and management of its affairs is not situated wholly in India in that year.

3. NOT ORDINARILY RESIDENT IN INDIA:
IN RESPECT OF "INDIVIDUALS" AND "HINDU UNDIVIDED FAMILIES":

It may be noted that under the Income-tax Act the status of "not ordinarily resident" in India is accorded only to "Individuals" and "Hindu undivided families" and not to any other categories of assessees. Accordingly, remaining categories of assessees are classified as "resident" (which means "ordinarily resident") or "non-resident", as the case may be.

Assessment year 2004-05 and onwards:

An individual will be treated as "not ordinarily resident" in India in any previous year if he has been a non-resident in India in 9 out of 10 previous years preceding that year, or has during the 7 previous years preceding that year been in India for a period of, or periods amounting in all to, *729 days or less* [Substituted section 6(6)(a)].

A Hindu undivided family (HUF) will be treated as "not ordinarily resident" in India if the manager of the HUF has been a non-resident in India in 9 out of 10 previous years preceding that year, or has during the 7 previous years preceding that year been in India for a period of, or periods amounting in all to, *729 days or less* [Substituted section 6(6)(b)].

In both the cases, i.e., individual/HUF, both the conditions are required to be complied with to be treated as "not ordinarily resident" in India.

Upto assessment year 2003-04:

An individual will be treated as "not ordinarily resident" in India if he has not been resident in India in 9 out of 10 previous years preceding that year or has not during the 7 previous years preceding that year been in India for a period of, or periods amounting in all to, *730 days or more* [The then section 6(6)(a)].

A Hindu undivided family (HUF) will be treated as "not ordinarily resident" in India if the manager of the HUF has not been resident in India in 9 out of 10 previous years preceding that year or has not during the 7 previous years preceding that year been in India for a period of, or periods amounting in all to, *730 days or more* [The then section 6(6)(b)].

In both the cases, i.e., individual/HUF, if either of the above two conditions are fulfilled, individual/HUF will be treated as "not ordinarily resident" in India.

(vi) Scope of income liable to tax:
(Sections 5, 5A & 9)

(1) Persons who are resident and ordinarily resident are chargeable to tax on all income:

(*a*) which is received or is deemed to be received in India;

(*b*) which accrues or arises or is deemed to accrue or arise in India; and

(*c*) which accrues or arises outside India [Section 5(1)].

In respect of husband and wife governed by the system of community of property under the Portuguese Civil Code of 1860 in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu, the income of husband and wife, except salary income, is to apportioned equally between husband and wife and assessed separately in their respective hands after giving rebates/reliefs, etc. to each one of them [Section 5A].

(2) The liability of the persons who are resident but not ordinarily resident is the same as in the case of persons who are resident and ordinarily resident [Refer (1) above] except that the income which accrues or arises outside India is not includible in their total income unless it is derived from a business controlled in or a profession set up in India [Proviso to section 5(1)].

(3) Non-residents are liable in respect of income received or deemed to be received in India or which accrues or arises or is deemed to accrue or arise in India [Section 5(2)]. They are not at all liable in respect of income accruing or arising outside India even if it is remitted to India.

(4) Irrespective of residential status, all income accruing or arising, whether directly or indirectly, through or from: (a) any business connection in India; or (b) any property in India; or (c) any asset or source of income in India; or (d) the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India and chargeable to tax in India [Section 9(1)(i)].

However, no income shall be deemed to accrue or arise in India to non-resident news agencies or film makers, where their operations in India are confined to gathering and transmitting news outside India or shooting films in India [Clause (c) and (d) of the *Explanation 1* to section 9(1)(i)].

(5) Salary income, irrespective of residential status, shall be deemed to accrue or arise in India and chargeable to tax in India if it is earned in India [Section 9(1)(ii)]. In respect of a crew member of an Indian ship, refer footnote No. 1 on page 50. In respect of Government servant who is a citizen of India and working in foreign country, the salary paid to him in a foreign country is deemed to accrue or arise in India [Section 9(1)(iii)]. However, foreign allowances and perquisites granted to such government employee posted in a foreign country are specifically exempt u/s. 10(7).

(6) The following incomes which are payable outside India, are deemed to arise in India —

(a) dividend paid by an Indian company [Section 9(1)(iv)];

(b) interest payable on moneys borrowed and brought into India [Section 9(1)(v)]; and

(c) royalty and technical service fees, where the royalty is payable in respect of any right or fees are payable in respect of technical services used for business or profession in India. Royalty

and technical service fees will be exempt, if payable: (1) through an agreement made before 1-4-1976 which is approved by the Central Government; and (2) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer based equipment under approved specified scheme of the Government of India [Section 9(1)(vi)/(vii)].

It may be noted that special provisions are applicable in respect of the taxability of income of non-resident Indian citizens and foreign nationals of Indian origin derived from specified foreign exchange assets as discussed at length in item (vii) below.

(7) Remittances out of foreign income received in India are entirely exempt from income-tax in the case of "resident" as well as "non-resident" assessees. However, the foreign income even though not remitted to India is liable to be charged to tax on accrual basis in the case of every ordinarily resident assessee but in the case of not ordinarily resident assessees such foreign income is chargeable on accrual basis if it arises from business controlled in or a profession set up in India as stated in (2) on page 52.

ILLUSTRATION: For assessment year 2004-05, Mr. A has income from the following sources:—

Income in India:		
(a) Income from house property in India	Rs. 25,000	
(b) Income from proprietory business in India	Rs. 60,000	
(c) Interest on debentures of Indian companies	Rs. 25,000	
Income in India	Rs.1,10,000	Rs. 1,10,000
Foreign income:		
(i) Interest on deposits with banks situated outside India (not accrued in India)	Rs. 30,000	
(ii) Dividend on shares in foreign companies (not accrued in India)	Rs. 10,000	
Foreign income	Rs. 40,000	Rs. 40,000
Gross total income		Rs. 1,50,000

If Mr. A is "resident and ordinarily resident in India", his gross total income under the Income-tax Act will be Rs. 1,50,000. However, he will be entitled to relief in respect of double taxation under section 90 or section 91 of the Act in respect of foreign income of Rs. 40,000 which has suffered tax in India as well as in foreign country.

If Mr. A is "resident but not ordinarily resident in India", his gross total income will be Rs. 1,10,000 and the foreign income of Rs. 40,000 will not be included in his gross total income as it does not arise from a business controlled in or profession set up in India.

If Mr. A is "non-resident in India", he will be assessable only on his Indian income of Rs. 1,10,000 and his foreign income from whatever source will not be included in his gross total income.

PERSON RESIDENT OUTSIDE INDIA:

The interest income from Non-Resident (External) Account in any bank in India is exempt under section 10(4)(ii)[2a] in the case of an individual who is a "person resident outside India" [as defined in section 2(q)[3] of the Foreign Exchange Regulation Act] or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account.

A citizen of India who stays out of India for employment or business, or a citizen of India who stays outside India for any other purpose, with an intention to stay outside India for an uncertain period, will be considered "person resident outside India".

(vii) Special provisions relating to certain income of non-resident Indian citizen and foreign nationals of Indian origin[4]:
[Chapter XII-A (Sections 115-C to 115-I)]

The salient features of the special provisions are as under:

(a) Any income derived other than dividends referred to in section 115-O by non-resident Indian[5] from a foreign exchange asset is called "Investment income"[6] [Section 115C(c)]. For this purpose,

2a. For the notes on 2nd proviso inserted in section 10(4)(ii) by the Finance (No. 2) Act, 2004, refer para 2.1 on page 42.

3. Under section 2(q) of the Foreign Exchange Regulation Act, 1973, "person resident outside India" means a person who is not resident in India. It may be noted that "person resident in India" is elaborately defined under section 2(p) of the said Act.

4. Other non-residents and foreign companies who are not "non-resident Indian" or "foreign nationals of Indian origin" will be governed by section 115A.

5. "Non-resident Indian" means an individual, being a citizen of India or a person of Indian origin who is not a "resident".
A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India.

6. Only for assessment year 2003-04, "Investment income" means any income (inclusive of dividend income) derived by non-resident Indian[5] from a foreign exchange asset.

"foreign exchange asset" means any specified asset acquired or purchased with, or subscribed to in, convertible foreign exchange[7]. The assets so specified under section 115-C(f) are:

(1) shares in an Indian company;

(2) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 1956;

(3) deposits with an Indian company which is not a private company as defined in the Companies Act, 1956;

(4) securities of the Central Government; and

(5) such other assets as may be notified by the Central Government.

(b) In computing the "investment income" of a non-resident Indian, no deduction will be allowed:

(1) in respect of any expenditure or allowance under any provision of the Income-tax Act, and

(2) in respect of deductions permissible under Chapter VI-A [Section 115D(1)/(2)].

In computing income chargeable under the head "Capital gains" in respect of shares in, or debentures of, an Indian company, the provisions of the 2nd proviso to section 48 [relating to "adjusted cost" (refer page 144)] will not apply [Section 115D(2)(a)].

However, where the non-resident Indian elects to furnish return of income to the Assessing Officer for any assessment year, the deductions permissible under the provisions of Income-tax Act will be allowed for that year as explained in *Example* No. (1) to (3) on pp. 55-56.

(c) Where the total income of a non-resident Indian consists only of "investment income" and/or income by way of "long-term capital gains"[8] arising from the transfer of any foreign exchange asset, such income shall be charged to tax at a flat rate of 20% by way of income-tax[9]. However, income by way of "long-term capital gains" arising from the transfer of any specified asset (i.e., foreign exchange asset) shall be charged to tax at a flat rate of 10%[8a], as against 20%, by way of income-tax[9] [Section 115-E].

The 1st proviso to section 48 provides a separate method of computation of capital gains (whether short-term or long-term) arising from transfer of shares or debentures of an Indian company held by a non-resident Indian. The cost of acquisition, expenditure incurred in connection with such transfer and the full value of consideration received or accruing as a result of such transfer should be converted into the same foreign currency as was initially utilised for the purchase of the said shares or debentures. The capital gains should be computed in that foreign currency and then such gains should be reconverted into Indian currency. This manner of computation of capital gains will be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares or debentures of, an Indian company [1st proviso to section 48[10]]. Refer *Example* No. 4 on page 57.

(d) The income from foreign exchange assets (called investment income) and long-term capital gains arising on transfer of foreign exchange asset will constitute a separate block of income and charged to tax at a flat rate of 20% by way of income-tax[9]. However, "long-term capital gains" arising from the transfer of any specified asset (i.e., foreign exchange asset) will be charged to tax at a flat rate of 10%[8a], as against 20%, by way of income-tax[9]. If the non-resident Indian has any other income in India, such other income will constitute as an altogether separate block of income and charged to tax as if such other income were the total income. The aggregate of income-tax[9] so calculated in respect of the said two blocks of income will be the tax payable for the relevant assessment year [Section 115-E]. Refer *Examples* No. (1) to (3) on pp. 55-56.

(e) The long-term capital gains arising from the transfer of any foreign exchange asset will be exempt from tax to the extent the net proceeds realised on transfer are re-invested or re-deposited within six months after the date of such transfer in any asset (hereafter referred to as the new asset) i.e., specified asset [as mentioned in para (a) above]; or Savings certificates[11] notified u/s. 10(4B).

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7. "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, and any rules made thereunder.

8. "Long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset. For definition of short-term/long-term capital asset, refer page 138.

8a. For the notes on long-term capital gains exempt u/s. 10(38)/short-term capital gains chargeable at reduced flat rate u/s. 111A, refer para 6.1/6.2 on page 46.

9. The income-tax so arrived at is to be increased by surcharge on income-tax in relation to: (a) assessment years 2001-02 to 2004-05 [Vide Paragraph A of Part I of the First Schedule to the Finance Act, 2001/2002/2003 & the Finance (No. 2) Act, 2004]; and (b) assessment year 2005-06 [Vide Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2004].

10. The benefit of computing the capital gains on sale of shares/debentures of an Indian company, as explained in the para, available to non-resident Indians is also applicable to other non-residents [Vide 1st proviso to section 48].

11. Notified savings certificates are 6-year National Savings Certificates VIth Issue and VIIth Issue [Notification No. S.O. 653(E), dated September 8, 1982: 137 ITR (St.) 48]. Investments in these certificates are discontinued w.e.f. 1-4-1989.

However, where the new asset is transferred or converted (otherwise than by transfer) into money within a period of three years of its acquisition, the capital gains arising from the transfer of the original asset which has been exempted from tax shall be deemed to be the long-term capital gains of the previous year in which the new asset is transferred or converted into money [Section 115-F].

(f) A non-resident Indian has the option to claim that in respect to any particular assessment year the special provisions relating to taxation of "investment income" and "long-term capital gains" under which the tax on such income is to be charged at a flat rate should not apply to him. Such option can be exercised by furnishing his return of income for that assessment year u/s. 139 declaring therein that the provisions of Chapter XII-A (i.e., flat rate) should not apply to him. In cases where such option is exercised in respect of any assessment year, the whole of the total income of that assessment year will be charged to tax under the general provisions of the Income-tax Act [Section 115-I].

(g) A non-resident Indian who becomes a resident in any subsequent year has the option to claim that the special provisions of Chapter XII-A shall continue to apply to him in relation to income derived from foreign exchange asset (other than shares in Indian companies) for that assessment year and for every subsequent assessment year until the transfer or conversion of such assets into money. Such option can be exercised by furnishing a declaration in writing to that effect along with his return of income for that assessment year [Section 115-H].

(h) A non-resident Indian having only investment income or income by way of long-term capital gains arising from the transfer of any foreign exchange asset or both need not file the return of his income under section 139(1) if the tax deductible from such income has been correctly deducted at source. However, it is permissible for him to opt under section 115-I of the Income-tax Act to submit the return of income and claim the refund due to him, if any, as explained in *Examples* No. (1) to (3) given hereafter [Section 115-G].

EXAMPLES:

(1) Mr. A who is a citizen of India has settled outside India. He comes on a visit to India every year but his stay in India during the financial years 1999-2000 to 2003-04, is less than 182 days. His status for the purposes of section 6 is non-resident. His "investment income" in India during financial year 2003-04 (assessment year, 2004-05) as a result of various investments made by him in foreign exchange asset is as under:

(i) Interest on Central Government securities	Rs. 37,000
(ii) Interest on debenture issued by a public limited Indian company	Rs. 35,000
(iii) Interest on deposits with a public limited Indian company	Rs. 25,000
Investment income	Rs. 97,000

At the time of payment of such "investment income", the tax deducted at source is at the rate of 20% as I.T. *plus* S.C. on I.T. 'nil' as income does not exceed Rs. 8,50,000 .. Rs. 19,400

Assuming that Mr. A has only "investment income" in India and he elects under section 115-I not to be governed by Chapter XII-A and opts to furnish his return of income under section 139(1) declaring therein that the provisions of Chapter XII-A shall not apply, then, his tax liability for the financial year 2003-04 (assessment year 2004-05) is to be worked out as given hereunder:

Income accruing or arising in India (investment income)		Rs. 97,000
Less: Deduction in respect of interest on Central Government securities:		
Maximum deduction u/s. 80L(1) restricted to	Rs. 12,000	
Additional deduction under proviso to section 80L(1)	Rs. 3,000	Rs. 15,000
Total (taxable) income		Rs. 82,000
Tax deducted at source on Rs. 97,000 @ 20%		Rs. 19,400
Less: I.T.* payable on total (taxable) income of Rs. 82,000 (Refer page 245)		Rs. 5,400
Refund due to Mr. A		Rs. 14,000

NOTE: In order to be entitled to this refund of Rs. 14,000, Mr. A should submit the return of income together with a refund application and declaration as stated above on or before 31-3-2006.

(**2**) In the above *Example,* if the "investment income" is Rs. 3,10,000 made up of interest on Central Government securities Rs. 30,000, interest on deposits with a public limited Indian company Rs. 1,30,000 and interest on debenture from public limited Indian company Rs. 1,50,000.

Investment income on foreign exchange assets	Rs. 3,10,000
Tax deducted at source @ 20% as I.T. *plus* S.C. on I.T. 'nil' as income does not exceed Rs. 8,50,000	Rs. 62,000

* Surcharge on I.T. is not payable as total (taxable) income does not exceed Rs. 8,50,000.

In this *Example,* it is not in the interest of Mr. A to opt for submission of return of income under section 139(1). It is so because after taking the maximum deduction of Rs. 15,000 under section 80L(1) read with proviso to section 80L(1), the total income liable to tax would be Rs. 2,95,000 and tax thereon at the Scheduled rates would be Rs. 62,500 (Refer page 246) as against Rs. 62,000 tax deducted at source under the special provisions.

(**3**) Assuming that during financial year 2003-04 (assessment year 2004-05) in addition to investment income of Rs. 80,000 by way of interest on deposits with public limited Indian companies, Mr. A has interest income of Rs. 84,000 in India being interest on bank fixed deposits.

Aggregate of tax deducted at source:

1.	In respect of investment income of Rs. 80,000 @ 20% as I.T. *plus* S.C. on I.T. 'nil'	Rs. 16,000
2.	In respect of interest income of Rs. 84,000 on bank deposits @ 30% as I.T. *plus* S.C. on I.T. 'nil' as income does not exceed Rs. 8,50,000	Rs. 25,200
	Aggregate of tax deducted at source	Rs. 41,200

(*a*) *Mr. A opts that provisions of Chapter XII-A (Refer page 55) may not apply:*

Investment income	Rs.	80,000
Interest on bank deposits	Rs.	84,000
Gross total income	Rs.	1,64,000
Less: Maximum deduction in respect of interest on bank deposits u/s. 80L(1)	Rs.	12,000
Taxable income	Rs.	1,52,000
Tax deducted at source	Rs.	41,200
Less: I.T.* on total (taxable) income of Rs. 1,52,000 (Refer page 246)	Rs.	19,600
Refund due to Mr. A . .	Rs.	21,600

In order to be entitled to this refund of Rs. 21,600, Mr. A should submit the return of income with a refund application as stated in note to *Example* (1) on page 55.

(*b*) *If Mr. A desires that provisions of Chapter XII-A (Refer page 55) shall apply:*

(i) Income other than investment income:

Interest on bank fixed deposits	Rs. 84,000	
Less: Deduction u/s. 80L(1): Maximum deduction restricted to	Rs. 12,000	
Income other than investment income in India	Rs. 72,000	Rs. 72,000

(ii) Investment income:

Interest on deposits with public limited Indian companies.		Rs. 80,000
Taxable income		Rs.1,52,000
Tax deducted at source (Rs. 16,000 *plus* Rs. 25,200)		Rs. 41,200
Less: I.T. on income other than investment income Rs. 72,000 @ scheduled rates (Refer page 244)	Rs. 3,400	
I.T. on investment income Rs. 80,000 @ 20% u/s. 115E	Rs. 16,000	
Aggregate of I.T.*	Rs. 19,400	Rs. 19,400
Refund due to Mr. A		Rs. 21,800

In this *Example,* it is in the interest of Mr. A that he should opt for assessment under Chapter XII-A in respect of his investment income.

NOTE: In cases where the total income of a person of Indian origin (and who has settled outside India) includes "Investment income" it is in his interest that he is governed by the provisions of Chapter XII-A if such investment income exceeds:

ASSESSMENT YEAR		
2003-04	*2004-05*	
(1) Rs. 2,60,000	Rs. 2,60,000	if the income consists of interest income in respect of debentures issued by an Indian public limited company and/or interest income in respect of deposits with such companies which do not qualify for deduction under section 80L.
(2) Rs. 2,72,000[12]	Rs. 2,72,000[12]	if the income consists of interest on Central Government securities/interest income from banks, amounting to Rs. 12,000[12] or more, then, qualifying deduction u/s. 80L(1) is to be restricted to Rs. 12,000[12] [for details, refer page 228].

12. Where interest on Govt. securities remains unallowed after deduction of Rs. 12,000 u/s. 80L(1), an additional deduction of an amount equal to so much of interest on Govt. securities as has remained unallowed will be allowed upto a maximum of Rs. 3,000 [Proviso to section 80L(1). For details, refer item "Additional deduction" on page 228]. In view of this additional deduction in respect of interest on Govt. securities the above figure of Rs. 2,72,000 may be increased to the extent of additional deduction allowable. For instance, if the additional deduction is Rs. 2,500, then, the figure of Rs. 2,72,000 should be increased to Rs. 2,74,500.

* Surcharge on I.T. is not payable as taxable income does not exceed Rs. 8,50,000.

The above figure of Rs. 2,60,000 for the assessment years 2003-04 and 2004-05, may be increased to the extent of deduction allowable under section 80L(1) in order to determine at what point it is in his interest to opt under the provisions of Chapter XII-A.

(**4**) Mr. A who is a non-resident Indian had purchased shares of an Indian company by investing US $ 10,000 on 1-1-1990. The value in rupees at the time of purchase being Rs. 2,55,000 (i.e., at Rs. 25.50 per 1 US $). He sold the said shares for Rs. 5,46,000 on 1-3-2004 (assessment year 2004-05), when the prescribed conversion rate in accordance with Rule 115A was, say, Rs. 45.50 per 1 US $. Mr. A does not have any other income except capital gain. Under first proviso to section 48, the computation of capital gains is to be worked out as under:

Sale price to be converted into the same foreign currency as was initially utilised for the purchase of said shares:

Sale price of shares Rs. 5,46,000 ÷ Rs. 45.50 (being the prescribed conversion rate in accordance with Rule115A of 1 US $ at the time of sale)	US$ 12,000
Less: Cost of acquisition of shares in US $	US$ 10,000
Long-term capital gain	US$ 2,000
Long-term capital gain of US $ 2,000 is to be reconverted into Indian rupees: US $ 2000 × Rs. 45.50 (being the prescribed reconversion rate in accordance with Rule 115A of 1 US $ at the time of sale)	Rs. 91,000
Tax on long-term capital gain Rs. 91,000 @ 10% *as* I.T.*	Rs. 9,100

Note: If the net proceeds realised on sale of shares are re-invested or re-deposited within six months after the date of sale in any specified assets mentioned in para (a) on page 53, then, the long-term capital gain on such shares will be exempt u/s. 115F [For details, refer para (e) on page 54].

(viii) Scheme of Advance Rulings in transactions involving non-residents/specified residents:

[Chapter XIX-B-Sections 245N to 245V]

Applicable from 1-6-2000[13]

A separate authority is constituted by the Central Government to avoid needless litigation involving:

(1) a non-resident;

(2) a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with a non-resident; and

(3) a resident assessee falling within any such class or category of persons as may be notified[14] by the Central Government [Section 245N(b)].

'Authority' means the Authority for Advance Rulings (AAR) [Section 245N(d)]. The AAR will give advance ruling in pursuance of an application for advance ruling in the prescribed Form No. 34C, 34D & 34E in quadruplicate made by an assessee referred to in (1), (2) & (3) above, respectively. Such an application can be withdrawn by the applicant within 30 days from the date of the application [Section 245Q].

The AAR will not allow the application where the question raised in the application:

(a) is already pending before any income-tax authority or Appellate Tribunal or any court in regard to an applicant being non-resident & resident [i.e., (1) & (2) above]. In regard to an applicant being a notified resident [i.e., (3) above], this bar would be operative only where the issue is pending before any court. Thus notified resident can seek advance ruling where the matter is pending before any income-tax authority or Appellate Tribunal;

(b) involves determination of fair market value of any property; and

(c) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax in regard to an applicant being non-resident and resident [i.e., (1) & (2) above] [1st proviso to section 245R(2)].

The AAR will give advance ruling on question of law or fact in relation to: (i) a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or (ii) the tax liability of a non-resident arising out of a transaction which has been undertaken or proposed to be undertaken by a resident applicant with such non-resident. In other words, the AAR will not allow an application which relates to the tax liability of the resident. However, an advance ruling pronounced, before the date on which the Finance Bill, 2003 receives the assent of the President (i.e., 14-5-2003), by the AAR in respect of an application by a resident applicant referred to in (2), shall be binding on the persons specified in section 245S [Section 245N(a) read with proviso thereto].

The ruling so given by the AAR shall be binding on the applicant, the Commissioner and the income-tax authorities subordinate to the Commissioner unless there is a change either in law or facts on the basis of which the advance ruling was pronounced [Section 245S]. No income-tax authority or the Appellate

13. For the notes on above sections applicable upto 31-5-2000, refer page 53 of ITRR 2000-01 (62nd Year of Publication).

14. Notified class or category of persons, is a public sector company as defined in section 2(36A) [vide Notification No. S.O. 725(E), dt. 3-8-2000: 245 ITR (St.) 5].

* Surcharge on I.T. is not payable as taxable income does not exceed Rs. 8,50,000.

Tribunal shall proceed to decide any issue in respect to which an application has been made by a resident applicant u/s. 245Q(1) [Section 245RR].

(ix) Income of other persons deemed to be the income of the person sought to be taxed:
(Sections 60 to 65)

(1) Under section 60, all income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of the Income-tax Act, 1961, shall, where there is no transfer of the assets from which the income arises, be chargeable to tax as the income of the transferor and shall be included in his total income.

(2) Under section 61, all income arising to any person by virtue of a revocable transfer of assets shall be charged as the income of the transferor and shall be included in his total income subject to the following exceptions made by section 62:

(a) where the income arises to any person by virtue of a transfer by way of trust which is not revocable during the life time of the beneficiary, and, in the case of any other transfer, which is not revocable during the life time of the transferee. In such cases, the income in question will be assessed in the hands of the beneficiary or the transferee, as the case may be, provided the transferor derives no direct or indirect benefit from such income; or

(b) where the income arises to any person by virtue of a transfer made before 1-4-1961 which is not revocable for a period of six years and the transferor derives no direct or indirect benefit from such income.

(3) *INCOME OF INDIVIDUAL TO INCLUDE INCOME OF SPOUSE, MINOR CHILD, ETC.:*

(a) In computing the total income of an individual, such income as arises directly or indirectly to the spouse of such individual by way of salary, commission, fees or any other form of remuneration in cash or in kind from a concern in which such individual and one or more of his relatives as defined under section 2(41) has a substantial interest (that is, not less than 20% of the voting power in a case where the concern is a company and in any other case not less than 20% of the profits of the concern) will be included in the total income of such individual [Section 64(1)(ii) read with *Explanation* 2 to section 64(1)].

However, where both the husband and wife have a substantial interest and both are in receipt of remuneration from such concern, the remuneration from such concern will be included in the total income of the husband or wife, as the case may be, whose total income excluding such remuneration is greater [*Explanation* 1 to section 64(1)].

Where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience, the provisions of section 64(1)(ii) shall not apply [Proviso to section 64(1)(ii)].

EXAMPLE 1: Messrs. Dalal & Company is a non-professional firm consisting of partners A, B & C sharing profits and losses equally. The wife of partner C is entitled to a remuneration of Rs. 6,000 per month without any technical or professional qualifications. The taxability of remuneration of Rs. 72,000 per annum will be dealt with as under:

(1) The remuneration of Rs. 72,000 will be included in the total income of Mr. C as his share in the firm (one-third) is not less than 20%.

(2) If the share of partner Mr. C in the above firm had been less than 20%, the remuneration received by Mrs. C would be taxed in her hands.

(3) If Mrs. C possesses technical or professional qualifications and the remuneration is attributable to the application of such technical or professional knowledge and experience, the remuneration received by Mrs. C will be taxed in her hands even if share of partner Mr. C in the above firm is 20% or more [Proviso to section 64(1)(ii)].

EXAMPLE 2: Mr. A and his wife have a substantial interest in a limited company holding shares carrying not less than 20% of voting power in the limited company. Both Mr. A and Mrs. A draw from the company remuneration of Rs. 60,000 & Rs. 48,000, respectively. The income of Mr. A & Mrs. A, other than remuneration from the company, is Rs. 1,20,000 & Rs. 1,00,000, respectively.

The remuneration received by spouse is required to be included in the total income of the spouse whose other income is greater as explained hereunder:

Total income of Mr. A

Total income other than remuneration		Rs. 1,20,000
Remuneration from the company:		
(1) Receivable by Mr. A	Rs. 60,000	
(2) Receivable by Mrs. A but includible in Mr. A's assessment as provided under *Explanation* 1 to section 64(1)	Rs. 48,000	Rs. 1,08,000
Gross total income of Mr. A		Rs. 2,28,000

Total income of Mrs. A

Total income other than remuneration		Rs.1,00,000
Remuneration received by Mrs. A from the company	Rs. 48,000	
Less: Included in the assessment of Mr. A under *Explanation* 1 to section 64(1)	Rs. 48,000	Rs. Nil
Gross total income of Mrs. A		Rs.1,00,000

Note: If Mrs. A possess technical or professional qualifications and the remuneration is attributable to the application of such technical or professional knowledge and experience, the remuneration received by Mrs. A will be taxed in her hands [Proviso to section 64(1)(ii)].

(b) Any income which arises directly or indirectly to the spouse of any individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration (love and affection is not an adequate consideration) or in connection with an agreement to live apart, will be deemed to be the income of the transferor of the assets [Section 64(1)(iv)].

(c) Any income which arises directly or indirectly from assets transferred directly or indirectly on or after 1-6-1973 by an individual to son's wife otherwise than for adequate consideration, will be included in the total income of such individual [Section 64(1)(vi)].

(d) Any income which arises directly or indirectly to any person or association of persons from assets transferred *directly or indirectly* otherwise than for adequate consideration to the person or association of persons by an individual, will be included in the total income of such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse [Section 64(1)(vii)].

(e) Any income which arises directly or indirectly to any person or association of persons from assets transferred *directly or indirectly* on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by an individual, will be included in the total income of such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife [Section 64(1)(viii)].

EXAMPLE: Mr. A transfers a sum of Rs. 3 lakhs to his brother Mr. B on 1-4-1985. Mr. B creates a trust by which he settles the said amount of Rs. 3 lakhs received from Mr. A for the benefit of Mr. A's wife, minor child, son's wife and son's minor child. It is assumed that:

(i) the personal income of Mr. A is Rs. 80,000;
(ii) the income of the trust created by Mr. B is Rs. 60,000;
(iii) the share of each beneficiary is 25%.

Income arising from the assets transferred indirectly is to be aggregated with the income of Mr. A u/s. 64(1)(vii) & 64(1)(viii). Total income of Mr. A will be as under:

(i) Personal income	Rs. 80,000
(ii) Share of income of wife from the trust [Included u/s. 64(1)(vii)]	Rs. 15,000
(iii) Share of income of minor child from the trust	Rs. [15]Nil
(iv) Share of income of son's wife from the trust [Included u/s. 64(1)(viii)]	Rs. 15,000
(v) Share of income of son's minor child from the trust	Rs. [15]Nil
Gross total income of Mr. A	Rs.1,10,000

It may, however, be noted that though under the provisions of section 64 as discussed above, the income legally arising to a person is deemed to be the income of another person in the circumstances mentioned above, the income arising from the investment of such "deemed income" will not be includible in the income of such other persons, except, where such income arises to a minor child.

(f) Under section 64(1A), all income accruing or arising to minor child shall be included in the total income of the parent, except the following—

(*1*) income accruing or arising to a minor child on account of any manual work done by him; or

(*2*) income accruing or arising to minor child on account of any activity involving application of his skill, talent or specialised knowledge & experience; or

(*3*) income accruing or arising to a minor child suffering from any disability of the nature specified in section 80U.

The income of minor shall be included—

(*1*) where the marriage of his parents subsists, with the income of that parent whose total income (excluding minor's income) is greater; or

(*2*) where the marriage of his parents does not subsist, with the income of that parent who maintains the minor child in the previous year.

Where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

15. The above income will be included in the hands of parent of the minor under section 64(1A). For details, refer para (f) hereafter.

Income not exceeding Rs. 1,500 in respect of each minor child, whose income is to be included, is exempt under section 10(32).

Note: "Child" in relation to an individual, includes a step-child and an adopted child of that individual [Section 2(15B)].

(4) *INCOME OF INDIVIDUAL TO INCLUDE INCOME OF CERTAIN HINDU UNDIVIDED FAMILIES:*

Where an individual being a member of a Hindu undivided family throws his separate property into the common hotchpot of the family after 31-12-1969, the entire income arising from such converted property will be included in the total income of such individual [Section 64(2)(b)].

Similarly, where an individual transfers directly or indirectly his separate property (instead of throwing into the common stock of the family) to the Hindu undivided family of which he is a member otherwise than for adequate consideration, the entire income arising from such converted property will be included in the total income of the individual [Section 64(2)(b)].

Where the income from converted property is included in the total income of the individual, such income is to be excluded from the total income of the family [Proviso to section 64(2)].

In the event of a partial or total partition in the family, the income arising to the spouse from the whole or any part of the converted property allotted to the spouse on such partition will be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and will be includible in the income of the individual under section 64(1) read with section 64(2)(c).

EXAMPLE: An individual being a member of a Hindu undivided family converted his separate property on 1-1-1970 into property belonging to his Hindu undivided family. The income in respect of such converted property is Rs. 50,000. Assuming that the family consists of Mr. A, Mrs. A, 2 minor sons and 1 major son, the income in respect of the HUF is to be assessed as under:

Total income of the HUF from converted property	Rs. 50,000
Less: Exclusion from the total income [Proviso to section 64(2)]	Rs. 50,000
Taxable income of HUF . .	Rs. NIL

The income of Rs. 50,000 shall be deemed to arise to Mr. A and will be included in his total income [Refer section 64(2)(b)].

However, in cases where there is a partial partition or total partition amongst the members of the family, only the income received by Mr. A and Mrs. A from the partitioned assets shall be included in the total income of Mr. A under section 64(1) read with section 64(2)(c). In respect of income arising to minor sons, provisions of section 64(1A) as explained in para (f) on page 59 will apply. The income received by the major son from the partitioned assets will not, however, be included in the total income of Mr. A.

The provisions of section 171(9) as explained hereafter will not be applicable to a partial partition of a separate property converted into HUF property after 31-12-1969.

Assessment of a Hindu undivided family where partition is effected before 1-1-1979: (Section 171)

Under the provision of the Income-tax Act, a total or partial partition of a Hindu undivided family can be claimed at the time of making the assessment of the Hindu undivided family and finding to that effect shall be recorded by the Assessing Officer under section 171(3) if he is satisfied that a partition, whether total or partial, has actually taken place. The assessment after partition is then to be made as indicated in the relevant sub-sections of section 171.

Partial partition of a Hindu undivided family after 31-12-1978 to be de-recognised: [Section 171(9)]

"Partial partition" as defined in clause (b) of the *Explanation* to section 171 means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

With effect from 1-4-1980, a partial partition among the members of a Hindu undivided family hitherto assessed as undivided effected after 31-12-1978 will not be recognised. This sub-section further stipulates that cases in which finding of such partial partition has been recorded under sub-section (3) of section 171 before or after 18th day of June, 1980, the same shall be treated as null and void. This sub-section is introduced with a view to curb the tendency to avoid or reduce the tax liability by the creation of multiple Hindu undivided families through the medium of partial partitions. In other words, despite the partial partition, such Hindu undivided family shall be liable to be assessed as if no partial partition has taken place.

This sub-section is, however, not applicable in a case where a total partition has taken place even after 31-12-1978.

(5) *INCOME INCLUDES LOSS:*

Explanation 2 to section 64 provides that the word "income" shall include "loss" for the purposes of section 64.

II. PRIVATE TRUSTS

[Sections 161, 164 & 166]

(i) DEFINITE TRUST:

In the case of a *Definite trust* (i.e., where the shares of the beneficiaries are determinate or known), the income falling to the share of each beneficiary is liable to tax in the hands of the trust under section 161, as a representative assessee, at the rate applicable to each beneficiary. However, under section 166 there is no bar to such share of income from the trust being assessed in the hands of the respective beneficiaries.

Section 161(1A) provides that, a *definite trust* will be liable to be taxed at the maximum marginal rate[16], if the income of such trust consists of, or includes, profits and gains of business.

However, the maximum marginal rate will *not* apply in a case where the profits and gains of business are receivable under a trust declared by any person by "will" exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.

(ii) DISCRETIONARY TRUST:

A trust is regarded as "*discretionary trust*" if the income or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the beneficiaries are indeterminate or unknown.

"*Discretionary trust*" is liable to tax under section 164 at the maximum marginal rate[16].

The maximum marginal rate of tax will *not* apply under conditions mentioned hereunder:

(*a*) Where none of the beneficiaries has any other income chargeable under the Income-tax Act exceeding the maximum amount not chargeable to tax in the case of an association of persons, and none of the beneficiaries is a beneficiary under any other trust; or

(*b*) where the relevant income is receivable under a trust declared by any person by "will" and such trust is the only trust so declared by him; or

(*c*) where the trust was created before 1-3-1970 by a non-testamentary instrument exclusively for the benefit of the relatives of the settlor mainly dependent on him for their support and maintenance; or

(*d*) where the relevant income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund for the benefit of persons employed in business or profession.

The provisions of section 167B applicable to association of persons (refer page 67) which provides for tax at maximum marginal rate will not apply to the above cases [Vide Circular No. 577, dt. 4-9-1990: 185 ITR (St.) 49].

However, if the relevant income consists of, or includes, profits and gains of business, the above exceptions (a) to (d) will not apply unless such profits and gains are receivable under a trust declared by any person by 'will' exclusively for the benefit of any relative dependent on him for support and maintenance and such trust is the only trust so declared by him. Barring this exception, tax will be charged at the maximum marginal rate on the whole income of the trust if any of its income consists of, or includes, profits and gains of business [2nd Proviso to section 164(1)].

Where the property is held under trust in part only for religious or charitable or religious purposes and the remaining part is held for other purposes, the tax chargeable shall be:

(*a*) tax on that part of the income which is applicable to charitable or religious purposes, to the extent it is not exempt under section 11, at the rate applicable to an association of persons;

(*b*) tax on that part of the income which is applicable to charitable or religious purposes, to the extent it is not exempt under section 11 or section 12 by virtue of contravention of provisions of sections 11(4A), 13(1)(c) and 13(1)(d), at the maximum marginal rate of income-tax including surcharge, if any, of respective year; and

(*c*) tax on income which is applicable to other purposes, at the maximum marginal rate of income-tax including surcharge, if any, of respective year.

16. Maximum marginal rate of tax: (a) for assessment year 2004-05 is 30% as I.T. + S.C. @ 10% of I.T where the total (taxable) income exceeds Rs. 8,50,000; (b) for assessment year 2003-04 is 31.5% (being 30% I.T. + 5% S.C. on I.T.); (c) for assessment year 2002-03 is 30.6% (being 30% I.T. + 2% S.C. on I.T.); and (d) for assessment year 2001-02 is 35.1% (being 30% I.T. + 17% S.C. on I.T.).

EXAMPLE: A trust, created before 1-4-1962, partly for charitable purposes has the following income for the assessment year 2004-05:

(i)	Income from property held in trust in part for charitable purposes		Rs. 80,000
	Less: Permitted accumulation @ 15% of Rs. 80,000	Rs. 12,000	
	Amount actually applied on objects of the trust	Rs. 16,000	Rs. 28,000
	Balance liable to tax		Rs. 52,000
(ii)	Income from the remaining part of the trust property (non-charitable purposes) in which the shares of beneficiaries are not known		Rs.1,00,000
	Total income liable to tax		Rs.1,52,000

The tax payable will be:

(1)	I.T. on Rs. 52,000 relating to charitable part as if it were the total income of an AOP	Rs. 200	
(2)	I.T. on Rs. 1,00,000 at the maximum marginal rate of tax @ 30%	Rs. 30,000	Rs. 30,200
	Add: As the total income does not exceed Rs. 8,50,000, surcharge on I.T. is.		Rs. NIL
	Total tax		Rs. 30,200

The discretionary trust is not eligible for deduction under section 80L, as the said deduction is available only to individual and Hindu undivided family.

Such trust will be taxable even if the income of such trust is below the taxable limit of respective year.

III. ORAL TRUSTS

[Sections 160(1)(v) and 164A]

"Oral trusts" will be charged to tax at the maximum marginal rate[17]. A trust which is not declared by a duly executed deed in writing will be considered as an oral trust. If trustee or trustees of such an oral trust files duly signed statement in writing containing the following details:

(i) purposes of the trust;
(ii) particulars of the trustees;
(iii) particulars of the beneficiaries; and
(iv) particulars of the trust properties,

with the Assessing Officer, within 3 months from 1-6-1981, in respect of oral trust created before that date or within 3 months from the date of declaration of trust in other cases, then, such oral trust shall be deemed to be a trust declared by a duly executed deed in writing. In other words, such trusts will not be assessed at the maximum marginal rate under section 164A. The existing provisions of section 160(1)(iv), 161 and 164 will be applicable for assessment of such trusts as discussed in the Chapter relating to "Private Trusts" on page 61.

IV. INCOME OF CHARITABLE AND RELIGIOUS TRUSTS

[Sections 2(15), 2(24), 11, 12, 12A, 12AA & 13]

(i) Income exempt from tax and conditions:

[Sections 2(15), 2(24), 11(1), 11(1B), 12A & 12AA]

The charitable purpose includes relief of the poor, education, medical relief and the advancement of any other object of general public utility [Section 2(15)].

Income in the form of voluntary contribution made with a specific direction that they shall form part of the corpus of the trust will be excluded from the total income of the trust u/s. 11(1)(d). Voluntary contributions will be included in the total income of the trust only if it loses exemption under section 11. This is consequential to inclusion of voluntary contributions in the definition of income [Section 2(24)(iia)].

The income derived from property held under trust or institution (referred to as trust for brevity) *wholly* for charitable or religious purposes is exempt, provided:

(1) 85% [75%, upto assessment year 2002-03] of its income derived from property held under trust is applied to such purposes in India [Sectio n 11(1)(a)/(b)];

(2) the trust has made an application in Form No. 10A for registration with the Chief Commissioner or Commissioner before 15-8-1973 or within one year from the date of creation of the trust[18], whichever is later. However, w.e.f. 1-6-1999, such application has to be made to the

17. Refer foot note No. 16 on page 61.

18. From 17-10-1989, such application should be made to Director of Income-tax (Exemptions), if the concerned trust is assessable in Delhi, Bombay, Madras or Calcutta [Vide Circular No. 584 dt. 13-11-90: 186 ITR (St.) 155].

Commissioner only. All pending applications before the Chief Commissioner on which no order has been passed u/s. 12AA(1)(b) before 1-6-1999, will stand transferred to the Commissioner u/s. 12AA(1A) [Section 12A(a)].

Section 12AA[18a] prescribes the procedure for registration of trust where the application for registration is received by the Commissioner u/s. 12A(a). Under this procedure, the Commissioner will call for such documents or information as may be necessary to satisfy himself about the objects of the trust and the genuineness of its activities. He may also make inquiries in this regard. After granting a reasonable opportunity of being heard, the Commissioner may register or refuse to register the trust by passing an order in writing, which shall be communicated to the applicant [Section 12AA(1)(b)]. Such order is to be passed before the expiry of six months from the end of the month in which the application was received u/s. 12A(a). W.e.f. 1-6-1999, an appeal can be filed to the Appellate Tribunal against order for refusal of registration passed u/s. 12AA [Section 253(1)(c)]; and

(3) where the total income of the trust as computed under the Income-tax Act before exemption under sections 11 and 12 exceeds Rs. 50,000/- in any year, the accounts of the trust for that year are required to be audited by an accountant as defined in the *Explanation* to section 288(2) and the audit report in Form No. 10B is filed with the return of income [Section 12A(b)].

If the income is derived from property held under trust in part only for charitable or religious purposes, the income applied to such purposes in India will also qualify for exemption provided the trust was created before 1-4-1962. If the trust was created after 1-4-1962, the provisions of section 164(3) will apply [Refer sub-item (ii) on page 61].

Explanation to sub-section (1) of section 11 prescribes that, in cases, where the amount spent on the objects of the trust during a previous year is less than 85% [75%, upto assessment year 2002-03] of its income, the deficiency can be made good at the option of the trustees to be exercised in writing before the expiry of the time allowed for furnishing the return of income under section 139(1) as under:

(*a*) where the deficiency is due to the reason that the whole or part of the income which has accrued has not been received during the previous year, such deficiency may be made good during the previous year in which such income is actually received, or in the next previous year;

(*b*) where the deficiency is due to any other reason, the same is to be made good in the previous year immediately following the previous year in which the deficiency has occurred [Clause (2) of the *Explanation* to section 11(1)].

Where the option is exercised but in the event of non-application of such income for the purposes of the trust within the stipulated time, such income shall be deemed –

(1) in cases referred to in (a) above, as income of the previous year immediately following the previous year in which such income was actually received; and

(2) in cases referred to in (b) above, as income of the previous year immediately following the previous year in which such income was derived [Section 11(1B)].

(ii) Accumulation of income and conditions: [Section 11(2), (3) & (3A)]

Accumulation or setting apart of any part of the trust income for future application to charitable or religious purposes in India is permissible without attracting tax liability provided –

(1) the trustees give notice to the Assessing Officer in the prescribed Form No. 10 specifying the purpose for which the income is to be accumulated or set apart and the period for which the income is to be accumulated or set apart, not exceeding –

(a) 5 years[19], in respect of income accumulated or set apart on or after 1-4-2001;

(b) 10 years[19], in respect of income accumulated or set apart on or before 31-3-2001; and

(2) the money so accumulated or set apart is invested or deposited in an approved pattern of investments specified in section 11(5) as detailed in item (vii) on page 65 [Section 11(2)].

If, in any year, the accumulated income ceases to remain invested or deposited in any of the forms or modes specified in section 11(5), it will be liable to tax as income of that year. Similarly, if in any year the accumulated income is applied to purposes other than religious or charitable purposes or ceases to be set apart for application to such purposes, it will be subject to tax as the income of that year. Further, if the accumulated income or any part thereof is not utilised for the specified purposes during the period of accumulation or during the year immediately following the expiry thereof, the amount which has not been so utilised will be liable to tax as income of the previous year immediately following the expiry of the accumulation period [Section 11(3)(a)/(b)/(c)].

18a. For the notes on sub-section (3) inserted in section 12AA by the Finance (No. 2) Act, 2004, refer para 3.1 on page 43.

19. In computing the period of 5 years/10 years, as the case may be, period if any, during which accumulated income could not be applied for the purpose for which it is so accumulated, due to an order or injunction of any court, shall be excluded [Vide 1st proviso to section 11(2)].

However, income allowed to be accumulated or set apart shall not be denied exemption later on if, due to circumstances beyond the control of the trustees, it cannot be spent for the purposes for which it was accumulated or set apart but is utilised, with the permission of the Assessing Officer, on any other charitable or religious purposes in conformity with the objects of the trust [Section 11(3A)].

From assessment year 2003-04 and onwards, any amount credited or paid, out of accumulated income, to another trust or institution registered u/s. 12AA or to any fund or institution, etc. referred to in section 10(23C) (iv)/(v)/(vi)/(via), either during the period of accumulation or thereafter shall not be treated as application of income for charitable or religious purposes [*Explanation* to section 11(2)]. If, in any year, accumulated income is credited or paid to another trust or institution registered u/s.12AA or to a fund or institution, etc. referred to in section 10(23C) (iv)/(v)/(vi)/(via), it will be liable to tax as income of the previous year in which such payment or credit is made [Section 11(3)(d)]. The Assessing Officer (AO) shall not have power u/s. 11(3A) to allow application of accumulated income by way of payment or credit to another trust or institution referred to in section 11(3)(d) [1st proviso to section 11(3A)]. However, in case the trust or institution, which has invested or deposited its accumulated income in approved pattern of investment specified u/s. 11(5), is dissolved, the AO may allow application of such income for the purposes referred to in section 11(3)(d) in the year in which such trust or institution was dissolved [2nd proviso to section 11(3A)]. If the AO allows application of such income, the same will be treated as application of income for charitable or religious purposes and exemption will be allowed.

(iii) Income from voluntary contributions: (Section 12)

(A) Voluntary contributions received by a trust created wholly for charitable or religious purposes (not being contributions with a specific direction that they shall form part of the corpus of the trust) shall be deemed to be income of the trust subject to exemption under section 11. Please refer item (i) on page 62. In order to establish that the contributions were received with the specific direction that they shall form part of the corpus of the trust, it is advisable to obtain confirming letters to that effect from the donors [Section 12(1)].

It may be noted that income by way of voluntary contributions received by private religious trusts or trusts created partly for charitable or religious purposes will not be exempt from tax.

(B) The value of any medical/educational services, made available by a trust running a hospital/medical institution/educational institution either free of cost or at concessional rate, to any person specified in clauses (a), (b), (c), (cc) & (d) of section 13(3) [Refer item (vi) on page 65] will be deemed to be income of such trust/institution during the previous year in which such services are so provided and will be chargeable to income-tax in relation to assessment year 2001-02 and subsequent years. In such a case, provisions of section 11(1) will not apply [Section 12(2)]. Also refer sub-item (7) of item (vi) on page 65.

(C) Any amount of donation received by the trust or institution in terms of section 80G(2)(d) [Refer sub-item(s) of condition (2) on page 215] in respect of which accounts of income and expenditure have not been rendered to the authority prescribed in section 80G(5C)(v), in the manner specified therein, or which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of section 80G(5C) and not transferred to the Prime Minister's National Relief Fund on or before 31-3-2004 will be deemed to be income of the previous year and chargeable to tax [Section 12(3)].

(iv) Exemption of capital gains: [Section 11(1A)]

On sale of a capital asset of a charitable trust, whether it is a *long-term or a short-term capital asset*, and reinvesting the net consideration (i.e., sale proceeds as reduced by any expenditure incurred wholly and exclusively in connection with such sale) in another capital asset, then, the capital gain equivalent to reinvestment in the new asset shall be deemed to have been applied to charitable purposes and will, therefore, be exempt.

(v) Business income of the trust: [Section 11(4) & 11(4A)]

Under section 11(4) where exemption is claimed in respect of income of any business undertaking held under trust for charitable and religious purposes, such income shall be computed in accordance with the provisions of the Income-tax Act and if the income so computed exceeds the income shown in the accounts of the undertaking, the excess shall not be entitled to exemption.

Section 11(4A) provides that provision relating to exemption, accumulation and application of trust income as contained in section 11(1), (2), (3) & (3A) will not apply to any profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust, and separate books of account are maintained by such trust in respect of such business.

(vi) Exemption under section 11 not available in certain cases:
(Section 13)

The following income of charitable or religious trust does not qualify for exemption under section 11:

(1) Any income of private religious trust which does not enure for the benefit of public [Section 13(1)(a)].

(2) Any income of charitable trusts and institutions created or established after 31-3-1962 for the benefit of any particular religious community or caste [Section 13(1)(b)].

(3) Any income of religious trusts and institutions created or established after 31-3-1962 which enures directly or indirectly for the benefit of any person referred to in section 13(3), i.e., author of the trust or founder of the institution or a substantial contributor to the trust or institution or any relative of such author, founder or substantial contributor, etc. [Section 13(1)(c)(i)].

"Substantial contributor" for this purpose means a contributor whose total contribution upto the end of relevant previous year exceeds Rs. 50,000 [Section 13(3)(b)].

(4) Any income of religious trusts and institutions whether created or established before or after 31-3-1962, if any part of their income or property is, during the previous year, used or applied, directly or indirectly, for the benefit of any person referred to in (3) above [Section 13(1)(c)(ii)]. However, in the case of trusts or institutions created or established before 1-4-1962, the exemption under section 11 will not be denied if any part of their income or property is used or applied for the benefit of any person referred to in (3) above in compliance with the mandatory term of the trust or a mandatory rule governing the institution [1st proviso to section 13(1)(*c*)].

(5) In a case where the funds of the trust or institution are invested in a concern in which any person referred to in (3) above has a substantial interest* and such investment exceeds 5% of the capital of the concern [Section 13(4)].

*The persons referred to in (3) above shall be deemed to have substantial interest in a concern, being a company, if they beneficially own shares (not being shares entitled to a fixed rate of dividend) carrying not less than 20% of the total voting power and in the case of any other concern, they are entitled, either singly or taken together, to not less than 20% of the profits of such concern. However, if the investment by the trust in such concern does not exceed 5% of the capital of such concern, the income of the trust from such concern alone is not entitled to exemption, but the rest of the income of the trust will qualify for exemption [Vide Circular No. 51, dt. 23-12-70: 79 ITR (St.) 72].

(6) Any profits and gains of business will not be exempt in the case of charitable or religious trusts and institutions except in cases covered under the heading "Business income of the trust" above.

(7) In relation to assessment year 2001-02 and subsequent years, exemption to trust/institution running educational institution/medical institution/hospital will not be denied wholly but only to the extent of income specified in section 12(2) as explained in sub-item (B) of item (iii) on page 64 [Section 13(6)].

(vii) Pattern of investment of accumulated income of charitable trusts:
[Sections 11(5) & 13(1)(d)]

The uniform pattern of investment of charitable trust as laid down in section 11(5) is as under:

(1) Investment in Government savings certificates [Section 11(5)(i)], including Indira Vikas Patra & Kisan Vikas Patra [Vide Circular No. 566, dt. 17-7-1990: 185 ITR (St.) 1].

(2) Investment in immovable property [Section 11(5)(x)].

(3) Deposit in any account with Post Office Savings Bank [Section 11(5)(ii)].

(4) Deposit in any account with (a) any nationalised bank, or (b) State Bank of India or any of its subsidiaries, or (c) scheduled bank, or (d) co-operative bank [Section 11(5)(iii)].

(5) Investments in units of the Unit Trust of India [Section 11(5)(iv)].

(6) Investment in Central or State Government security [Section 11(5)(v)].

(7) Investment in debentures of any company or corporation where the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central or State Government [Section 11(5)(vi)].

(8) Investment or deposit in any public sector company as defined in section 2(36A) [Section 11(5)(vii)]. W.e.f. 1-4-2001 (assessment year 2001-02 and onwards), even if such public sector company ceases to be a public sector company, such investment made in shares of such company will be deemed to be an investment u/s. 11(5)(vii) for a period of 3 years from the date on which such public sector company ceases to be a public sector company. In respect of other investment or deposit, same shall be deemed to be an investment or deposit u/s. 11(5)(vii) for the period up to the date on which such investment or deposit becomes repayable by such company [Proviso to section 11(5)(vii)].

(9) Deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction u/s. 36(1)(viii) [Section 11(5)(viii)].

(10) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction u/s. 36(1)(viii) [Section 11(5)(ix)].

(11) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India in relation to assessment year 2001-02 and subsequent years [Section 11(5)(ixa)].

(12) Deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 [Section 11(5)(xi)].

(13) Any other form or mode of investment or deposit as may be prescribed (Refer rule 17C[20]) [Section 11(5)(xii)].

Further, section 13(1)(d) provides that the trust will forfeit the exemption, if—

(*a*) any trust fund is invested after 28-2-1983 otherwise than in any approved pattern of investment as detailed above;

(*b*) any trust fund having invested in non-approved pattern of investment before 1-3-1983 and continues to be so invested after 30-11-1983;

(*c*) the trust holds shares in a company other than a Government company or a statutory corporation after 30-11-1983.

However, proviso to section 13(1)(d) provides that the above provisions will not apply in relation to:

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

(ii) any accretion to the shares, forming part of the corpus referred to in (i) above, by way of bonus shares allotted to the trust;

(iii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust before the 1st day of March, 1983[21];

(iv) any asset, not being investment or deposit in approved pattern of investment detailed above, where such asset is not held by the trust otherwise than in any approved pattern of investment as detailed above, after the expiry of one year from the end of the previous year in which such asset is acquired or 31-3-1993, whichever is later;

(v) any funds representing the profits and gains of business of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Where the trust or institution has any other income in addition to profits and gains of business, the provisions of (v) above shall not apply unless the trust maintains separate books of account in respect of such business [*Explanation* to the proviso to section 13(1)(d)].

(viii) Filing of return of income by trustees of charitable or religious trusts: [Sections 139(4A) & 139A]

It is obligatory for the trustees of charitable or religious trust or institution to file voluntary return of income under section 139(4A) if the total income of the trust or institution, without giving effect to the provisions of sections 11 & 12, exceeds the maximum amount not liable to tax. The return is required to be filed within the time allowed u/s. 139(1) of the Income-tax Act.

Notes: 1. The income of the trust as is not exempt under section 11 or section 12 is taxable as if it is an association of persons [Section 164(2)].

2. The interest from banks, etc. is not entitled to deduction u/s. 80L as such deduction is only available to individual and HUF.

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20. Under rule 17C of the Income-tax Rules, the forms and modes of investment or deposits shall be:
(i) investment in the units issued under any scheme of the mutual fund referred to in section 10(23D);
(ii) any transfer of deposits to the Public Account of India;
(iii) deposits made 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;
(iv) investment by way of acquiring equity shares of a depository as defined in section 2(1)(e) of the Depositories Act, 1996.

21. It may be noted that where the debentures of a company are acquired by the trust after 28-2-1983 but before 25-7-1991, exemption u/s. 11/12 will be denied only in respect of interest on such debentures; that is, such interest will be taxed. However, such debentures should be disinvested and invested in the approved pattern of investment detailed above on or before 31-3-1992. If not so disinvested, the trust will loose exemption u/s. 11 [Section 13(5)].

3. If the trust has not been allotted permanent account number and is required to furnish return of income u/s. 139(4A), then, such trust has to apply for allotment of permanent account number within the prescribed time [Section 139A];
4. Where the total income of the trust as computed under the Income-tax Act before allowing exemption u/s. 11 or 12 exceeds Rs. 50,000, the accounts are to be audited by an accountant as defined in the *Explanation* to section 288(2) [Section 12A(b)].

(ix) Levy of tax at "maximum marginal rate" in the case of charitable and religious trusts in certain circumstances:

[Section 164(2)]

Sub-section (2) of section 164 provides that in the case of income derived from property held under trust wholly for charitable or religious purposes or which is in the nature of voluntary contributions received by the trust or which is of the nature of profits and gains of business, tax shall be charged on so much of the income as is not exempt under section 11 or section 12 as if the income not so exempt were the income of an association of persons.

However, in a case where the whole or any part of the aforesaid income is not exempt under section 11 or section 12 because of the contravention of the provisions of section 13(1)(c) and 13(1)(d), tax shall be charged on such income or part thereof, as the case may be, at the "maximum marginal rate".

V. ASSOCIATION OF PERSONS/BODY OF INDIVIDUALS:

[Sections 40(ba), 67A, 80A(3), 86 & 167B]

The provisions of above sections prescribes the scheme of assessment of an association of persons (AOP), body of individuals (BOI) and the members thereof. In the following circumstances, AOP/BOI will be charged to tax at the maximum marginal rate[22] under section 167B:

(*a*) where the shares of the members in the whole or any part of the income of AOP/BOI are indeterminate or unknown on the date of formation of such association/body or at any time thereafter;

(*b*) where the share of the member, in the whole or any part of the income of AOP/BOI are determinate or known, and any member thereof has taxable income (excluding his share from association/body).

However, in a case (a) above, if any of its member is taxable at a rate higher than the maximum marginal rate, then the AOP/BOI will be charged to tax at such higher rate instead of at the maximum marginal rate.

Further, in a case (b) above, if any of its member is taxable at a rate higher than the maximum marginal rate, then the portion of total income of AOP/BOI relatable to the share of that member shall be charged to tax at such higher rate and the balance of total income shall be charged at the maximum marginal rate.

Where the share of the members of AOP/BOI are determinate and known and none of the member has taxable income, then the AOP/BOI will be charged to tax at the slab rates applicable to individual.

While computing the business or professional income of AOP/BOI, interest, salary, bonus, commission or remuneration paid to a member will not be allowed as deduction under section 40(ba) [For details, refer sub-item (5) of item (ii) on page 130].

Where the shares of members of AOP/BOI are determinate or known, computation of share of its members is to be made in accordance with section 67A as under:

(1) deduct interest, salary, bonus, commission or remuneration, by whatever name called, paid to the member from the total income of the AOP/BOI;

(2) the balance so arrived at in (1) above is to be apportioned amongst the members in the proportion in which they are entitled to share in the income of the AOP/BOI, under the same heads of income as in the case of AOP/BOI;

(3) if the amount apportioned to a member as in (2) above:

(*a*) is a profit, any interest, salary, bonus, commission or remuneration paid to the member by the AOP/BOI is to be added to such apportioned amount and the resultant amount will be member's share in the income of AOP/BOI;

(*b*) is a loss, any interest, salary, bonus, commission or remuneration paid to the member by the AOP/BOI is to be adjusted against the apportioned loss and the resultant amount will be member's share in the income of AOP/BOI.

22. Refer footnote No. 16 on page 61.

(4) interest paid by a member on capital borrowed by him for the purposes of investment in the AOP/BOI will be allowed as deduction from his share (chargeable under the head "Profits and gains of business or profession") as determined in (3) on page 67.

Where any deduction admissible under sections 80G, 80GGA, 80GGC, 80HH, 80HHA, 80HHB, 80HHC, 80HHD, 80-I, 80-IA, 80-IB, 80J or 80JJ is allowable in computing the total income of the AOP/BOI, no deduction under the same section shall be allowed in the hands of its member in computing his share of income from the AOP/BOI [Section 80A(3)].

Under section 86 the share of a member as computed under section 67A:

(a) will be included in the total income of the member for rate purposes only if AOP/BOI is chargeable to tax at usual rates and not at maximum marginal rate; or

(b) will not at all be included in the total income of the member, if the AOP/BOI has been taxed at maximum marginal rate or at a higher rate; or

(c) will be included in the total income of the member and income-tax shall be payable thereon, if no income-tax is chargeable on the total income of the AOP/BOI, as the provisions of section 86 will not apply in such circumstances.

The Central Board of Direct Taxes has clarified by its Circular No. 320 of 11th January, 1982 [134 ITR (St.) 166] that "in the cases of registered societies, trade and professional association, social and sports clubs, charitable or religious trusts, etc., where the members or trustees are not entitled to any share in the income of the association of persons, the provisions of section 167A/167B will not be attracted and, accordingly, tax will be payable in such cases at the rate ordinarily applicable to the total income of an association of persons and not at the maximum marginal rate.".

VI. COMPUTATION OF TOTAL INCOME

(i) Heads of Income:
(Section 14)

For the purpose of computation of total income of an assessee on which tax is to be charged, income from various sources is to be computed under the following heads:

(1) Salaries.
(2) Income from house property.
(3) Profits and gains of business or profession.
(4) Capital gains.
(5) Income from other sources (i.e., residuary income which does not fall under any of the preceding heads).

(ii) Expenditure incurred in relation to income not includible in total income:
(Section 14A)

For the purposes of computing the total income under Chapter IV (i.e., sections 15 to 59), no deduction will be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Income-tax Act.

The Assessing Officer shall not reopen or rectify any assessment in relation to assessment year 2001-02 and earlier years in order to withdraw the deduction for expenses, if any, allowed against exempt income in those assessment years [Proviso to section 14A].

"SALARIES"

[From assessment year 2001-02 and onwards]

[Sections 15, 16 & 17]

Income under the head "Salaries" comprises remuneration in any form (including perquisites) due for personal service under an express or implied contract of employment or service. Thus, the contractual relationship should be as between an employer and employee[1].

Income from "salaries" is chargeable to tax on due basis.

Explanation to section 9(1)(ii) clarifies that income which falls under the head "Salaries" for services rendered in India shall be regarded as income earned in India. From assessment year 2000-01 and subsequent years, the substituted *Explanation*, further clarifies that "salaries" payable for rest periods or leave periods which is preceded and succeeded by services rendered in India and forms part of the service contract of employment shall also be regarded as income earned in India. It may be noted that when a person employed in India settles in a foreign country after retirement and receives his pension abroad, the pension so paid to him will be taken as income accruing in India and will be liable to tax even though he may be a non-resident. This is because the pension is paid on account of services rendered in India.

In the case of a Government servant, who is a citizen of India and is posted abroad, the salary paid to him abroad is deemed to accrue or arise in India under section 9(1)(iii) even though the service is rendered by him outside India. However, foreign allowances and perquisites granted to such government employees posted to a foreign country are specifically exempt under section 10(7). This concession is not, however, available to Indian employees in private service who are posted abroad. In respect of members of the crew of foreign-going Indian ship, refer footnote No. 1 on page 50.

Income which is assessable under the head "Salaries"

(i) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not [Sec. 15(a)];

(ii) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him. This includes salary paid in advance and where it is included in the total income of any previous year in which it is paid, it will not be included again in the total income of the previous year in which such salary becomes due [Sec. 15(b) read with *Explanation* 1];

(iii) any arrears of salaries paid or allowed to him in a previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year [Sec. 15(c)].

It may, however, be noted that if as a result of receipt of any arrears of salary, the total income is assessed at a rate higher than that at which it would otherwise have been assessed, the assessee may apply to the Assessing Officer concerned for appropriate relief under section 89 of the Income-tax Act. Relief will be granted in accordance with Rule 21A of the Income-tax Rules[2] (for computation of relief, refer page 74).

Ordinarily, the word "salary" is understood as periodical payment for services rendered by an employee to an employer. However, for the purposes of sections 15 and 16, it is defined under section 17(1)[2a] as inclusive of the following items:

(i) Wages [Sec. 17(1)(i)];

(ii) Any annuity or pension [Sec. 17(1)(ii)];

(iii) Any gratuity [Sec. 17(1)(iii)];

(iv) Any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages [Sec. 17(1)(iv)];

(v) Any advance of salary [Sec. 17(1)(v)];

(vi) Any payment received by an employee while in service in respect of any period of leave not availed of by him[3] [Sec. 17(1)(va)];

(vii) *(a)* The portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund, consisting of employer's contributions in excess of 12% of the salary of an employee [Sec. 17(1)(vi)],

(b) interest credited on the balance in so far as it exceeds 9.5%[4] [Sec. 17(1)(vi)]; and

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1. It may be noted that the salary, bonus, commission or remuneration received by a partner of a firm from the firm will not be chargeable under the head "Salaries" [*Explanation* 2 to section 15]. It will be charged under the head "Profits and gains of business or profession" [Section 28(v)].

2. For the purposes of deduction of tax at source u/s. 192(1), certain categories of employers have been empowered to allow the relief u/s. 89 to its employees subject to the condition that employee furnishes particulars in the prescribed Form No. 10E to the employer (For details, refer page 95).

2a. For the notes on new sub-clause (viii) inserted in section 17(1) by the Finance (No. 2) Act, 2004, refer para 4.1 on page 43.

3. The encashment of unutilised leave at the time of retirement on superannuation or otherwise is exempt under section 10(10AA). For further details, refer page 77.

4. Vide Notification No. S.O. 484(E), dt. 30-5-2001: 251 ITR (St.) 80. Upto 31-3-2001, for the figure '9.5%', read '12%'.

(viii) Transferred balance in a recognised provident fund to the extent to which it is chargeable to tax under sub-rule (4) of Rule 11 of Part A of the Fourth Schedule [Sec. 17(1)(vii)].

However, any lump sum payment made gratuitously or by way of compensation or otherwise to widow/legal heir of an employee, who dies while in service will not be taxable under the Income-tax Act [Vide Circular No. 573, dt. 21-8-1990: 185 ITR (St.) 31].

DEARNESS ALLOWANCE

This is an additional payment over and above the basic salary for meeting the high cost of living and is chargeable under the head "Salaries".

COMMISSION

If the terms and conditions of service are such that commission is not paid as bounty benefit but is paid as part and parcel of the remuneration for services rendered by the employee, such payment would be in the nature of salary rather than a benefit or perquisite. For example, if an employee is appointed on a fixed monthly remuneration *plus* a commission of 1% on sales, the commission being part of his remuneration, will not be a benefit, amenity or perquisite but will be regarded as remuneration. If however, on the terms and conditions of service either there is no obligation on the employer to pay the commission or it is a matter purely at the discretion of the employer, such payment would be treated as a benefit by way of addition to salary rather than in lieu of salary.

BONUS

The payment of bonus will be treated as salary and not as a benefit or perquisite in the following type of cases:

(a) Payment of bonus made under a service agreement between the employer and the employee;

(b) Bonus paid under the Payment of Bonus Act, 1965;

(c) Bonus paid in accordance with the decision of a trade association which is binding on its members;

(d) Bonus paid as an award by a Labour Tribunal where the award is binding on the employer and the employees.

If the bonus is paid gratuitously without there being any legal or contractual obligation, the payment will be in the nature of a perquisite or benefit.

COMPENSATORY ALLOWANCE

Compensatory allowances to meet expenses wholly, necessarily and exclusively incurred by the employee in the performance of duties (conveyance allowance) or to meet expenses at the place of employment (city compensatory allowance) or at a place where he resides are treated as income under section 2(24)(iiia) and 2(24)(iiib)[5]. However, such of those allowances as are prescribed in Rule 2BB of the Income-tax Rules, 1962 will be exempt under section 10(14).

Under Rule 2BB, the allowances which have been prescribed as exempt u/s. 10(14) are as under:

(1) PRESCRIBED ALLOWANCES EXEMPT U/S. 10(14)(i) [VIDE RULE 2BB(1) OF THE INCOME-TAX RULES, 1962]:

For the purposes of sub-clause (i) of clause (14) of section 10, prescribed allowances, by whatever name called, shall be the following, namely:-

(a) any allowance granted to meet the cost of travel on tour or on transfer;

(b) any allowance, whether granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty;

(c) any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit:

Provided that free conveyance is not provided by the employer;

(d) any allowance granted to meet the expenditure incurred on a helper where such helper is engaged for the performance of the duties of an office or employment of profit;

(e) any allowance granted for encouraging the academic, research and training persuits in educational and research institutions;

(f) any allowance granted to meet the expenditure incurred on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit.

Explanation.–For the purpose of clause (a), "allowance granted to meet the cost of travel on transfer" includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.

5. Allowance like uniform/attire allowance, books/periodicals allowance, entertainment allowance, furnishing allowance, etc. will be covered u/s. 2(24)(iiia). Similarly, allowances like dearness allowance, city compensatory allowance, etc. will be covered u/s. 2(24)(iiib) [Vide Circular No. 537, dt. 12-7-1989: 179 ITR (St.) 2]. Reimbursement of tuition fee is not exempt from tax [Vide para (4)(viii) of Circular No. 690, dt. 1-9-94: 209 ITR (St.) 102].

(2) PRESCRIBED ALLOWANCES EXEMPT U/S. 10(14)(ii) [VIDE RULE 2BB(2) OF THE INCOME-TAX RULES, 1962]:

For the purposes of sub-clause (ii) of clause (14) of section 10, the prescribed allowances, by whatever name called, and the extent thereof shall be the following, namely:–

Sl. No.	*Nature of allowance*	*Place at which allowance is exempt*	*Extent to which allowance is exempt*
1.	Any special compensatory allowance in the nature of special compensatory (hilly areas) allowance or high altitude allowance or uncongenial climate allowance or snow-bound area allowance or avalanche allowance	The places have been categorised into three groups as under:	
		I. Certain areas[6] of Manipur, Arunachal Pradesh, Sikkim, Uttar Pradesh, Himachal Pradesh and Jammu & Kashmir	Rs. 800/- per month.
		II. Siachen area of Jammu & Kashmir	Rs. 7,000/- per month.
		III. All places located at a height of 1,000 metres or more above the sea level, other than places specified at (I) and (II) above	Rs. 300/- per month.
2.	Any special compensatory allowance in the nature of border area allowance, remote locality allowance or difficult area allowance or disturbed area allowance	The places have been categorised into six groups as under:	
		I [For places refer[7]]	Rs. 1,300/- per month.
		II Installations in the continental shelf of India and the exclusive economic zone of India	Rs. 1,100/- per month.
		III [For places refer[7]]	Rs. 1,050/- per month.
		IV [For places refer[7]]	Rs. 750/- per month.
		V Jog falls in Shimoga District in Karnataka	Rs. 300/- per month.
		VI [For places refer[7]]	Rs. 200/- per month.
3.	Special compensatory (tribal areas/ schedule areas/agency areas) allowance	Madhya Pradesh, Tamil Nadu, Uttar Pradesh, Karnataka, Tripura, Assam, West Bengal, Bihar and Orissa	Rs. 200/- per month.
4.	Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place, provided that such employee is not in receipt of daily allowance	Whole of India	70% of such allowance upto a maximum of Rs. 6,000/- per month.
5.	Children education allowance	Whole of India	Rs. 100/- per month per child upto a maximum of 2 children.
6.	Any allowance granted to an employee to meet the hostel expenditure on his child	Whole of India	Rs. 300/- per month per child upto a maximum of 2 children.
7.	Compensatory field area allowance	Certain areas[8] in Arunachal Pradesh, Sikkim, Himachal Pradesh, Uttar Pradesh, Jammu & Kashmir; and throughout Manipur & Nagaland	Rs. 2,600/- per month (W.e.f. 1-5-99), [Rs. 1,300/- per month, from 1-8-97 to 30-4-99].
8.	Compensatory modified field area allowance	Certain areas[8] in Punjab, Rajasthan, Haryana, Himachal Pradesh, Arunachal Pradesh, Assam, Sikkim, West Bengal, Uttar Pradesh, Jammu & Kashmir; and throughout Mizoram & Tripura	Rs. 1,000/- per month (W.e.f. 1-5-99), [Rs. 500/- per month, from 1-8-97 to 30-4-99].

6. For areas specified in Category I, refer text of Rule 2BB(2) [214 ITR (St.) 118].
7. For places mentioned in Group I, III, IV & VI, refer Income-tax (Third Amendment) Rules, 2000 [243 ITR (St.) 50-55].
8. For areas specified at serial No. 7 & 8, refer text of Rule 2BB(2) [214 ITR (St.) 125-129].

PRESCRIBED ALLOWANCES EXEMPT U/S. 10(14)(ii) (CONTD.):

Sl. No.	*Nature of allowance*	*Place at which allowance is exempt*	*Extent to which allowance is exempt*
9.	Any special allowance in the nature of counter-insurgency allowance granted to the members of armed forces operating in areas away from their permanent locations for a period of more than 30 days	Whole of India	Rs. 3,900/- per month (W.e.f. 1-5-99), [Rs. 1,300/- per month, from 1-8-97 to 30-4-99].
10.	Transport allowance granted to an employee other than an employee referred to in serial number 11 to meet his expenditure for the purpose of commuting between place of his residence and the place of his duty	Whole of India	Rs. 800/- per month.
11.	Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty	Whole of India	Rs. 1,600/- per month.
12.	Underground allowance granted to an employee who is working in uncongenial, unnatural climate in underground coal mines[9]	Whole of India[9]	Rs. 800/- per month.[9]
13.	Any special allowance in the nature of high altitude (uncongenial climate) allowance granted to the member of the armed forces operating in high altitude areas[10]	(a) For altitude of 9,000 to 15,000 feet[10] (b) For altitude above 15,000 feet[10]	Rs. 1,060/- per month.[10] Rs. 1,600/- per month.[10]
14.	Any special allowance granted to the members of the armed forces in the nature of special compensatory highly active field area allowance[10]	Whole of India[10]	Rs. 4,200/- per month.[10]
15.	Any special allowance granted to the member of the armed forces in the nature of island (duty) allowance[11]	Andaman & Nicobar and Lakshadweep group of islands[11]	Rs. 3,250/- per month.[11]

Provided that any assessee claiming exemption in respect of the allowances mentioned at serial numbers 7 and 8 shall not be entitled to the exemption in respect of the allowance referred to at serial number 2:

Provided further that any assessee claiming exemption in respect of the allowance mentioned at serial number 9 shall not be entitled to the exemption in respect of disturbed area allowance referred to at serial number 2.

GRATUITIES

Under section 10(10) of the Income-tax Act, 1961 gratuities received by different categories of employees are exempt from tax to the extent mentioned below:

(1) Death-cum-retirement gratuity:

Death-cum-retirement gratuities received by the employees of the Central Government, State Governments, local authorities and members of the Defence services are totally exempt from tax under section 10(10)(i) of the Income-tax Act and should not, therefore, be included in the salary income.

It may be mentioned here that u/s. 10(15)(iv)(i), interest earned by employees of the Central or State Government or a public sector company on deposit of moneys due to them on their retirement whether on superannuation or otherwise, in the scheme notified by the Central Government [Vide Notification No. G.S.R. 598 (E): Refer 182 ITR (St.) 63] is fully exempt. The deposit itself is exempt from wealth-tax without any monetary limit.

9. Serial number 12 inserted vide Income-tax (Fourth Amendment) Rules, 2000 [243 ITR (St.) 56].
10. Serial number 13 & 14 inserted w.e.f. 1-5-1999 vide Income-tax (Twenty-second Amendment) Rules, 2000 [246 ITR (St.) 66].
11. Serial number 15 inserted w.e.f. 29-2-2000 vide Income-tax (Twenty-first Amendment) Rules, 2000 [246 ITR (St.) 65].

(2) Gratuity received under the Payment of Gratuity Act, 1972:

[Applicable to employees to whom provisions of section 1(3) of the Payment of Gratuity Act, 1972, applies]

Such gratuity is, however, exempt from tax to the extent it does not exceed the amount in accordance with the provisions of sub-sections (2) & (3) of section 4 of the Payment of Gratuity Act, 1972, as provided in section 10(10)(ii) of the Income-tax Act. The gratuity exempt from tax is accordingly to be calculated as discussed below.

According to section 4 of the Payment of Gratuity Act, 1972, gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.

Sub-sections (2) & (3) of section 4 of the Payment of Gratuity Act, 1972 further state that the employer shall pay gratuity to an employee at the rate of fifteen days' wages for each completed year of service or part thereof in excess of six months on the basis of wages last drawn by the employee concerned or Rs. 3,50,000[12], whichever is less.

Under section 2(s) of the Payment of Gratuity Act, 1972, the word "wages" is defined as under:-

> "Wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

The extent of exemption for gratuity for the purposes of Income-tax Act is as under:

(a)	for every completed year of service or part thereof in excess of six months, based on the rate of wages last drawn by the employee concerned [Section 4(2) of the Payment of Gratuity Act, 1972]	15 days' wages
	OR	
(b)	the amount of gratuity payable to an employee subject to a maximum of [Section 4(3) of the Payment of Gratuity Act, 1972]	Rs. 3,50,000[12]

whichever is less of (a) & (b).

EXAMPLE: Shri A an employee completed 40 years and 7 months of service with C & Co. Ltd., and at the time of retirement he received Rs. 2,10,000 as gratuity under the Payment of Gratuity Act, 1972. He retired in the month of January, 2004. His monthly wages on the date immediately preceding the date of retirement was Rs. 7,800. The gratuity payable under section 4(2) of the Payment of Gratuity Act, 1972 is as under:

(a)	The period of service	40 years & 7 months
(b)	No. of completed years of continuous service under the Payment of Gratuity Act, 1972. .	41 years
(c)	Wages drawn preceding the date of retirement	Rs. 7,800 per month

Gratuity exempt:

1.	Wages per day	Rs. 7,800 ÷ 26[13]	= Rs.	300
2.	Multiply each day's wages by 15	Rs. 300 × 15[14]	= Rs.	4,500
3.	Multiply 15 days' wages by 41	Rs. 4,500 × 41[15]	= Rs.	1,84,500

For the assessment year 2004-05, the gratuity exempt from income-tax will be Rs. 1,84,500 as the said amount is in accordance with the provisions of the Payment of Gratuity Act, 1972.

The balance of Rs. 25,500 (Rs. 2,10,000 *less* Rs. 1,84,500) paid under section 4(5) of the Payment of Gratuity Act, 1972 does not qualify for exemption u/s. 10(10)(ii) of the Income-tax Act and the same is to be included under the head "Salaries".

(3) Gratuity received by employees of private sector and statutory corporations:

[Applicable to employees who are not covered under item (2) above]

Gratuity received on retirement, incapacitation, death of the employee or termination of his employment[16] is exempt under section 10(10)(iii) of the Income-tax Act to the extent mentioned below.

Gratuity not exceeding one-half month's salary for each year of completed service calculated on the basis of average salary for ten months immediately preceding the month in which any such event occurs, subject to such limit as may be notified by the Central Government (at present such limit is Rs. 3,50,000[17]).

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12. The ceiling limit increased from Rs. 1,00,000 to Rs. 3,50,000, in relation to an employee retiring on or after 24-9-1997 [Vide the Payment of Gratuity (Amendment) Act, 1998]. The ceiling limit is Rs. 1,00,000, in relation to an employee retiring on or after 24-5-1994 but before 24-9-1997. The ceiling limit is Rs. 50,000, in relation to an employee retiring on or before 23-5-1994.

13. As per *Explanation* to section 4(2) of the Payment of Gratuity Act, 1972.

14. This represents fifteen days' wages.

15. This represents the number of completed years of continuous service.

16. The Central Board of Direct Taxes has clarified that the expression 'termination of employment' used in section 10(10) of the Income-tax Act, covers the case of an employee whose services comes to an end due to resignation [Vide Circular F. No. 194/6/73-IT(A1), dt. 19-6-73].

17. The exemption limit increased from Rs. 2,50,000 to Rs. 3,50,000 in relation to the employees, who retire or become incapacitated prior to such retirement or die on or after the 24th September, 1997, or whose employment is terminated on or after the said date [Vide Notification No. 10772, dt. 20-1-1999 issued u/s. 10(10)(iii) of the Income-tax Act: 236 ITR (St.) 252].

"Salary" for the purposes of gratuity received by: (i) employees of statutory corporations, and (ii) employees in private sector, includes dearness allowance, if the terms of employment so provide but excludes all other allowances and perquisites [Vide *Explanation* to section 10(10) and read with Rule 2(h) of Part A of the Fourth Schedule].

Where gratuity is received by an employee from two or more employers in the same year, the maximum amount of gratuity exempt from tax shall not exceed Rs. 3,50,000[18]. In cases where an employee who has received gratuity in any earlier year from his former employer or employers, receives gratuity from another employer in a later year, the limit of Rs. 3,50,000[18] will be reduced by the amount of gratuity which has been exempted in any earlier year or years [Vide 1st and 2nd proviso to sub-clause (iii) of section 10(10)].

EXAMPLE: Shri A an employee completed 38 years of service with B & Co. Ltd. and at the time of retirement on 31-3-2004, he received Rs. 3,60,000 as gratuity. His aggregate salary in the immediately preceding ten months was Rs. 1,80,000 (i.e., from 1-5-2003 to 29-2-2004).

Average salary per month i.e. Rs. 1,80,000 ÷ 10 months	Rs. 18,000
Gratuity qualifying for exemption is ½ month's average salary Rs. 9,000 × 38 years of service = Rs. 3,42,000 subject to ceiling amount of Rs. 3,50,000	Rs. 3,42,000
Gratuity received	Rs. 3,60,000
Less: Gratuity qualifying for exemption	Rs. 3,42,000
Gratuity to be included in the salary income	Rs. 18,000

The amount of Rs. 18,000 will, however, be included in the salary for the period from 1-4-2003 to 31-3-2004 and the income under the head "Salaries" is to be computed for the assessment year 2004-05 as under:

Salary from 1-4-2003 to 31-3-2004			Rs. 2,16,000
Gratuity for inclusion in the salary income as computed above			Rs. 18,000
	Base for deduction u/s. 16(i) & 16 (iii)		Rs. 2,34,000
Less: (1) Standard deduction under section 16(i)(A)[19]: @40% of salary Rs. 2,34,000	Rs. 93,600		
	Maximum deduction restricted to	Rs. 30,000	
(2) Deduction under section 16(iii): Professional tax paid (say)	Rs. 2,000	Rs. 32,000	
	Taxable salary for assessment year 2004-05		Rs. 2,02,000

Relief when salary, etc., is paid in arrears or in advance: [Section 89]

Where an assessee is in receipt of a sum in the nature of salary, being paid in arrears or in advance or is in receipt, in any one financial year, of salary for more than 12 months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, or is in receipt of a sum in the nature of family pension[20] as defined in the *Explanation* to section 57(iia), being paid in arrears, due to which his total income is assessed at a rate higher than that at which it would otherwise have been assessed, the Assessing Officer shall, on an application made to him in this behalf, grant relief under Rule 21A of the Income-tax Rules, 1962.

A government servant or an employee in a company, co-operative society, local authority, University, institution, association or body, if he is entitled to relief under section 89, he may furnish to the employer, such particulars, in the prescribed Form No. 10E. The employer in such a case shall compute the relief u/s. 89 on the basis of such particulars and take it into account while deducting tax at source [Vide section 192(2A)].

According to Circular No. 431, dt. 12-9-1985 [156 ITR (St.) 82] the relief under section 89 read with Rule 21A of the Income-tax Rules will also be admissible in respect of encashment of leave salary by an employee while in service.

COMPUTATION OF THE RELIEF UNDER SECTION 89 READ WITH RULE 21A:

(A) In respect of salary paid in arrears or in advance/[21] *family pension paid in arrears*]*:*

Relief under section 89 read with Rule 21A(1)(a) is to be computed in the following manner:

(i) Find out the tax on total income of the previous year in which the salary is received in arrears or in advance (such salary being hereafter referred to as the "additional salary")/[21family pension is received in arrears (such family pension being hereafter referred to as "additional family pension")].

(ii) Find out the tax on total income as reduced by additional salary/[21additional family pension] of the previous year.

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18. Refer footnote No. 17 on page 73.
19. Standard deduction u/s. 16(i) is to be allowed even to the employees whose income from salary exceeds Rs. 5,00,000, whether they are provided with any conveyance or not by the employer.
20. "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death [*Explanation* to section 57(iia)].
21. The words in paranthesis inserted w.e.f. 1-4-2002 vide Income-tax (Twenty-first Amendment) Rules, 2002 [257 ITR (St.) 2].

(iii) From the amount arrived at in (i), deduct the amount arrived at in (ii).

(iv) The resultant figure of (iii) is the *tax on additional salary*/[21a additional family pension].

(v) Ascertain the previous years to which the additional salary/[21a additional family pension] relates and add the respective amount of additional salary/[21a additional family pension] in respective preceding previous years.

(vi) Find out the tax on total income as increased by the relevant additional salary/[21a additional family pension] in respect of each of such previous years.

(vii) Find out the tax on the total income (without the addition of additional salary)/[21a additional family pension] of each of the said previous years.

(viii) From the amount so arrived at in (vi), deduct the amount arrived at in (vii).

(ix) The resultant figure arrived at in (viii) is the *aggregate tax on additional salary*/[21a additional family pension].

(x) The relief under section 89 is the difference of (iv) & (ix).

EXAMPLE: For the financial year ending on 31-3-2004, the total (taxable) income of Mr. A an employee is Rs. 1,02,000 which is inclusive of arrears of salary for the financial years ending on 31-3-2001, 31-3-2002 and 31-3-2003 in an amount of Rs. 7,500, Rs. 10,000 & Rs. 12,500 respectively and the relevant total (taxable) income of the said years after exhausting the monetary ceiling limit of deduction u/s. 16(i) is Rs. 44,000, Rs. 46,000 and Rs. 52,000. Relief u/s. 89 is to be worked out as under:

Total (taxable) income (excluding salary received in arrears).	Rs. 72,000
Add: Salary received in arrears for year ending 31-3-2001, 31-3-2002 & 31-3-2003	Rs. 30,000
Total (taxable) income for the financial year ending on 31-3-2004	Rs. 1,02,000

I.T. on Rs. 1,02,000 being the total (taxable) income is Rs. 9,400 *less* Rs. 1,600 [being rebate (deduction) u/s. 88 @ 20% of the contribution to provident fund Rs. 8,000] = Rs. 7,800 *plus* S.C. on I.T. 'nil'** . . Rs. 7,800 (i)

Less: I.T. on Rs. 72,000 being the total (taxable) income is Rs. 3,400 *less* Rs. 1,600 [being rebate (deduction) u/s. 88 @ 20% of the contribution to provident fund Rs. 8,000] = Rs. 1,800 *plus* S.C. on I.T. 'nil'** . . Rs. 1,800 (ii)

Tax on additional salary (i.e., salary received in arrears) . . . . . Rs. 6,000 (iv)

Financial year ending on	*Assessment year*	*Total (taxable) income*	*Arrears of salary*	*Total of column 3 & 4*	*Tax in respect of col. 5*	*Tax in respect of col. 3*	*Difference of column 6 & 7*
1	2	3	4	5	6	7	8
31-3-2001	2001-02 (v)	Rs. 44,000	Rs. 7,500	Rs. 51,500	‡Rs. NIL (vi)	‡Rs. NIL (vii)	Rs. NIL (viii)
31-3-2002	2002-03 (v)	Rs. 46,000	Rs. 10,000	Rs. 56,000	†Rs. 300 (vi)	†Rs. NIL (vii)	Rs. 300 (viii)
31-3-2003	2003-04 (v)	Rs. 52,000	Rs. 12,500	Rs. 64,500	*Rs. 1,365 (vi)	*Rs. NIL (vii)	Rs. 1,365 (viii)
					Rs. 1,665	Rs. NIL	Rs. 1,665 (ix)

Less: Aggregate tax on additional salary as per column 8 . . . . . Rs. 1,665 (ix)

The relief under section 89 in respect of employee's salary received in arrears or in advance is . . . . Rs. 4,335 (x)

**As the total (taxable) income does not exceed Rs. 8,50,000, S.C. on I.T. is not payable.

‡I.T. on Rs. 51,500 is Rs. 150 and on Rs. 44,000 is Rs. Nil, respectively, *less* Rs. 150 [being rebate u/s. 88 @ 20% of the contribution to provident fund Rs. 750].

†I.T. on Rs. 56,000 is Rs. 600 and on Rs. 46,000 is Rs. Nil, respectively, *less* Rs. 300 [being rebate u/s. 88 @ 20% of the contribution to provident fund Rs. 1,500].

*I.T. on Rs. 64,500 is Rs. 1,900 and on Rs. 52,000 is Rs. 200, respectively, *less* Rs. 600 [being rebate u/s. 88 @ 20% of the contribution to provident fund Rs. 3,000]. i.e., Rs. 1,900 *less* Rs. 600 = Rs. 1,300 *plus* S.C. @ 5% on I.T. Rs. 65 = Rs. 1,365.

Note: Under section 89, an employee is required to make an application to the Assessing Officer for the grant of relief in respect of arrears of salary for the assessment year 2004-05. For the purposes of deduction of tax at source u/s. 192(1), certain categories of employers have been empowered to allow the relief u/s. 89 to its employees subject to the condition that employee files particulars in the prescribed Form No. 10E to the employer [Section 192(2A). For explanatory notes on this section, refer page 74].

(B) In respect of gratuity:

The relief admissible under section 89 read with Rule 21A(1)(b) is to be computed in the following manner:

(a) Where the payment of gratuity is made in respect of past services of an employee extending over a *period of not less than 15 years:*

(1) Find out the tax on total income [including therein the amount of gratuity which is not exempt u/s. 10(10)] of the previous year in which the gratuity is received.

(2) To find out the average rate of tax on total income, divide the tax arrived at in (1) by total income of the previous year in which gratuity is received.

(3) To find out the tax payable on the gratuity, multiply the average rate of tax arrived at in (2) by the amount of gratuity.

(4) Add one-third of the amount of gratuity to the total income of each of the three years immediately preceding the previous year in which the payment by way of gratuity is made.

21a. The words in paranthesis inserted w.e.f. 1-4-2002 vide Income-tax (Twenty-first Amendment) Rules, 2002 [257 ITR (St.) 2].

(5) Find out the tax on total income, of each of the three preceding previous years, arrived at in (4).

(6) To find out the average rates of tax on total income of each of the three preceding previous years, divide the tax computed in (5) of the relevant previous year by the total income of that year.

(7) Total the average rates of tax of these three years and divide the result by three in order to find out the average of these three average rates of tax.

(8) To find out the tax payable on the gratuity, multiply the average of the three average rates of tax arrived at in (7) by the amount of gratuity.

(9) The relief u/s. 89 is the difference between the tax on gratuity as computed in (3) and (8).

(b) Where the payment by way of gratuity is made in respect of the past services of an employee extending over a *period of not less than 5 years but less than 15 years,* the method of calculating the relief will be the same as shown in *(a)* above except that the total income of each of the two (instead of three) immediately preceding previous years is to be increased by an amount equal to one-half (instead of one-third) of the amount of the gratuity.

(c) Where the payment of gratuity is in respect of past services of *less than 5 years,* no relief is admissible u/s. 89.

(C) In respect of compensation:

The relief admissible under section 89 read with Rule 21A(1)(c) is to be computed in the following manner:

Where the payment of compensation is received by an assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for *not less than 3 years* and where the *unexpired portion of his term of* employment is also not less than 3 years.

The method of calculating relief under section 89 is the same as stated in steps (1) to (9) of the preceding item "(B)(a) in respect of gratuity" except that wherever the word "gratuity" appears, the same may be substituted by the word "compensation".

Retrenchment compensation

Retrenchment compensation received by a workman from his employer under the Industrial Disputes Act, 1947, or under any other Act or award or contract of service, etc. is exempt from tax under section 10(10B). The exemption is limited to the amount calculated in accordance with the provisions of section 25F*(b)* of the Industrial Disputes Act, 1947, subject to a monetary ceiling of such amount, not being less than Rs. 50,000, as may be notified by the Central Government. The Central Government has notified monetary ceiling limit of Rs. 5,00,000 as exempt u/s. 10(10B) in respect of workman who receives compensation at the time of his retrenchment on or after 1-1-1997 [Vide Notification F. No. 200/21/97/ITA-I, dt. 25-6-1999: 240 ITR (St.) 184].

However, where retrenchment compensation is paid under a scheme approved by the Central Government, the whole of the compensation will be exempt i.e., without any monetary ceiling limit.

Voluntary retirement

Section 10(10C) provides that any amount received or receivable (i.e., in instalment)[22] by an employee of—

1. a public sector company; or
2. any other company; or
3. an authority established under a Central, State or Provincial Act; or
4. a local authority; or
5. a co-operative society; or
6. a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University u/s. 3 of the University Grants Commission Act, 1956; or
7. an Indian Institute of Technology within the meaning of section 3(g) of the Institutes of Technology Act, 1961; or
8. such institute of management as may be notified by the Central Government; or
9. any State Government; or
10. the Central Government (from assessment year 2002-03); or
11. an institution, having importance throughout India or in any State or States, as may be notified by the Central Government[23] (from assessment year 2002-03),

on his voluntary retirement[24] in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company, a scheme of voluntary separation, is exempt to the extent such amount does not exceed Rs. 5,00,000 [Section 10(10C)].

Voluntary retirement scheme is to be framed in accordance with the guidelines prescribed under Rule 2BA[25] of the Income-tax Rules, 1962.

Where exemption has been allowed to an employee u/s. 10(10C) for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year [2nd proviso to section 10(10C)].

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22. Upto assessment year 2003-04, for the words "amont received or receivable (i.e., in instalment)", read "amount received".

23. Notified institution is the International Crops Research Institute for the Semi-Arid Tropics [Notification No. S.O. 645(E), dt. 19-6-2002: 256 ITR (St.) 5].

24. Upto assessment year 2003-04, for the words "on his voluntary retirement", read "at the time of his voluntary retirement".

25. For Board's clarification on Rule 2BA, refer Circular No. 640, dt. 26-11-1992 [199 ITR (St.) 2].

APPROVED SUPERANNUATION FUND

Any payment from an approved superannuation fund made—

(a) on the death of a beneficiary (i.e., widows, children or dependents of an employee), or

(b) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement [subject to a maximum of one-third (if gratuity is also payable) or one-half (in any other case) of such annuity], or

(c) by way of refund of contributions on the death of a beneficiary,

is exempt from income-tax under section 10(13) of the Income-tax Act, 1961.

Superannuation fund may be set up by the employer for the sole purpose of providing annuities for employees on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for widows, children or dependents of persons who are or have been such employees on the death of those persons. Such a fund should be got approved by the Chief Commissioner or Commissioner of Income-tax by following the procedure prescribed in Part B of the Fourth Schedule to the Income-tax Act read with Rules 82 to 97 of the Income-tax Rules.

The fund is funded by employer's and employee's contribution. The employee's contribution qualifies for rebate u/s. 88. The contribution that can be made by the employer is upto 27% (25%, upto 21-9-1997) of employee's salary for each year as reduced by employer's contribution to the provident fund of such employee for that year [Rule 87 of the Income-tax Rules]. Employer's contribution will not be treated as perquisite [Section 17(2)(v)].

Under Rule 90 of the Income-tax Rules, any payment in commutation of annuity shall not exceed—

(1) in a case where the employee receives any gratuity, the commuted value of one-third of the annuity receivable, and

(2) in any other case, the commuted value of one-half of the annuity receivable.

The annuity payable year after year out of the fund to the employee, if taxable, is eligible for standard deduction u/s. 16(i). Any payment out of the fund, if liable to be taxed, the trustees of the fund will have to deduct tax at source u/s. 192(5) read with rule 6 of Part B of the Fourth Schedule to the Income-tax Act, 1961. Where an employee leaves one employment and takes up another employment and the first employer transfers the fund in respect of that employee to the fund of the second employer, such transfer will not be liable for deduction of tax at source. That is, it will not be treated as income of the employee and will be exempt u/s. 10(13) [CBDT's F. No. 216/15/78 AII, dt. 13-1-1982].

EXEMPTION OF AMOUNT RECEIVED BY WAY OF ENCASHMENT OF UNUTILISED EARNED LEAVE BY RETIRING EMPLOYEES:

[Section 10(10AA)]

Cash equivalent of leave salary received only *at the time of retirement*[26] whether on superannuation or otherwise is wholly exempt in the case of Central or State Government employees. For others, cash equivalent of leave salary received *at the time of retirement*[26] whether on superannuation or otherwise is exempt subject to certain conditions and limits explained hereunder:

(1) Earned leave entitlement must not exceed 30 days for every year of actual service rendered by him as an employee of the employer from whose service he has retired.

(2) Earned leave so encashed must not be for more than 10 months.

(3) Leave salary must be based on average salary drawn by the employee during ten months immediately preceding his retirement.

(4) The sum so payable shall not exceed—

(a) Rs. 3,00,000, where the employee retires after 1-4-1998[27];

(b) Rs. 2,40,000, where the employee retires after 1-7-1997 but before 2-4-1998[28].

(5) Even if non-Government employee has received the sum from different employers in different or in the same previous year, the ceiling limit stated in (4) above will be applied on all such payments put together if such payment received earlier had not been taxed.

"Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites [Rule 2(h) of Part A of the Fourth Schedule] [Vide *Explanation* to section 10(10)].

26. Section 17(1)(va) provides that the encashment of earned leave while in service will be treated as salary.
27. Vide Notification No. S.O. 588(E), dt. 31-5-2002 issued u/s. 10(10AA)(ii) of the Income-tax Act [Refer 256 ITR (St.) 30].
28. Vide Notification No. S.O. 1015(E), dt. 27-11-1998 issued u/s. 10(10AA)(ii) of the Income-tax Act [Refer 236 ITR (St.) 202].

EXAMPLES:

1. Shri A, an employee of Messrs. C. & Co. Limited, at the time of retirement was paid Rs. 2,88,000 as cash equivalent of earned leave to his credit. He retired on 31st January, 2004. His monthly salary at the time of retirement was Rs. 24,000. He was drawing this sum from March 2003 onwards. The earned leave to his credit at the time of retirement was 12 months. The company allows earned leave at the rate of one month (30 days) for every year of actual service.

Average salary for preceding 10 months	Rs. 24,000 per month
Maximum period of leave that can be encashed	10 months
(a) Leave salary admissible: 10 months × Rs. 24,000	Rs. 2,40,000
(b) Maximum exemption permissible	Rs. 3,00,000
Lower of (a) and (b) viz. Rs. 2,40,000 qualifies for exemption	Rs. 2,40,000.

Out of Rs. 2,88,000 received only Rs. 2,40,000 will be exempt under section 10(10AA) and the balance Rs. 48,000 will be taxed as salary income for the assessment year 2004-05. Thus, the total gross salary would be Rs. 2,88,000 [Rs. 2,40,000 (Rs. 24,000 salary per month × 10 months) *plus* Rs. 48,000 taxable leave salary].

2. Mr. B, an employee of Messrs. B & Co. Limited, retired on 29-2-2004, after 20 years of service. Earned leave at his credit was 9 months upto the date of his retirement. He had taken 630 days of leave. He was entitled to 1½ month's leave for every completed year of service. His salary was Rs. 10,000 per month which he was drawing for the last 10 months. The company paid him Rs. 1,35,000 as cash equivalent of leave at his credit.

Leave entitlement:

Total service		20 years
Leave entitlement restricted to 30 days for every year of actual service (30 days × 20 years)	600 days	
Less: leave taken during entire service	630 days	
Leave at his credit	Nil	

Mr. B is not entitled to exemption under section 10(10AA) as the leave at his credit calculated according to *Explanation* to section 10(10AA) is less than the leave already taken.

3. If, in the above *Example 2,* Mr. B had taken only 540 days of leave (while in service) then:

Leave at his credit (600 days *less* 540 days)	60 days (i.e., 2 months)
Leave encashment exempt under section 10(10AA): 2 months × Rs. 10,000	Rs. 20,000

The balance of Rs. 1,15,000 (Rs. 1,35,000 *less* Rs. 20,000) will be taxed as salary income for the assessment year 2004-05.

NOTE: Cash equivalent of leave salary payable on the death of a Government servant to his legal heirs is not liable to income-tax [Vide Circular No. 309, dated 3-7-1981: 132 ITR (St.) 3]. This is because the receipt in the hands of the family is not in the nature of one from an employer to an employee. On the same analogy, in my opinion, cash equivalent of leave salary payable on the death of any other employee to his legal heirs would also not be liable to income-tax.

CLASSIFICATION OF PERQUISITES

It is important to note that under section 17(2), perquisites are classified as under:

(i) the value of rent-free accommodation provided to the assessee by his employer [Sec. 17(2)(i)];

(ii) the value of any concession in the matter of rent in respect of any accommodation provided to the assessee by his employer [Sec. 17(2)(ii)];

(iii) the value of any benefit or amenity granted free of cost or at concessional rate to the following categories of employees:—

(a) a director of a company [Sec. 17(2)(iii)(a)];

(b) an employee of a company who has substantial interest in the company, i.e., an employee who is the beneficial owner of at least 20% of the ordinary shares [Sec. 17(2)(iii)(b)]; and

(c) any other employee whose income under the head "Salaries" exclusive of all non-monetary benefits or amenities exceeds Rs. 50,000 [Rs. 24,000, upto assessment year 2001-02] in relation to the aggregate salary due to, or received by, an employee from one or more employers. In other words, where the salary of any other employee is less than Rs. 50,000 [Rs. 24,000, upto assessment year 2001-02], the value of any benefit or amenity granted free of cost or at concessional rate will be exempt unless the benefit or amenity is of obligatory nature referred to in (v) on page 79 [Sec. 17(2)(iii)(c)].

From assessment year 2001-02 and onwards, the value of any benefit provided by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants, directly or indirectly, under any Employees' Stock Option Plan or Scheme of the company

offered to such employees will not be regarded as a perquisite[29], if such Plan or Scheme is in accordance with the guidelines issued by the Central Government[30] [Proviso to section 17(2)(iii)]. However, where an employee sells such securities, the gains will be assessable as capital gains, under the normal provisions of law relating to capital gains [Also refer page 149].

For assessment year 2000-01, the value of any such benefit provided by a company will be taxed as a perquisite u/s. 17(2)(iiia) [Refer item (iv) hereafter].

The use of the employer's vehicle for journey by the employee from his residence to his office or other place of work, or from such office or place to his residence, will not be regarded as benefit or amenity granted free of cost or at concessional rate to the employee [*Explanation* to section 17(2)(iii)];

(iv) for assessment year 2000-01, the value[31] of any specified security[32] allotted or transferred during 1-4-1999 to 31-3-2000, directly or indirectly, by any person free of cost[33], or at concessional rate, to an individual who is or was in employment of that person. Where the said allotment or transfer of specified securities is in pursuance of a stock option exercised by the individual before 31-3-2000, the said value of specified securities will be taxable in the previous year in which the option is exercised. In such a case, value of perquisite is the difference between the fair market value of the specified securities on the date of exercising option and the actual cost at which they were acquired [Section 17(2)(iiia)]. Where the employee sells or transfers the specified securities so acquired, the cost of acquisition will be taken as the fair market value on the date of exercising the option [Section 49(2B)]. Also refer page 149.

(v) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. For example, the tax dues of an employee, the sum spent on the education of an employee's children and the sums spent on gas, electric energy and water are a few instances of such obligatory payments [Sec. 17(2)(iv)];

(vi) any sum payable by the employer, whether directly or through a fund (other than recognised provident fund or an approved superannuation fund or a Deposit-linked Insurance Fund), to effect an assurance on the life of the assessee or to effect a contract for an annuity [Sec. 17(2)(v)];

(vii) from assessment year 2002-03 and onwards, the value of any other fringe benefit or amenity as prescribed in the sub-rule (7) of substituted rule 3 [Refer sub-item (ix) on page 85] [Sec. 17(2)(vi)].

Only in respect for the financial year ending on 31-3-2002 (assessment year 2002-03), no perquisite shall be computed under section 17(2) in the case of an employee whose income under the head "Salaries" for that year, exclusive of the value of all perquisites not provided for by way of monetary payments, does not exceed Rs. 1,00,000 [2nd proviso to section 17(2)]. In relation to assessment year 2003-04 and subsequent years, provisions of section 10(10CC) will apply subject to the conditions. For the notes on section 10(10CC), refer item (3) on pp. 88-89.

VALUATION OF PERQUISITES

1. ASSESSMENT YEAR 2002-03 AND ONWARDS:

For the purpose of computing the income chargeable under the head "Salaries", the value of perquisites provided by the employer directly or indirectly to the employee or to any member of his household[34] by reason of his employment is to be determined as prescribed in the substituted rule 3 of the Income-tax Rules, 1962.

However, an employee has an option, to compute the value of all perquisites made available to him or any member of his household[34] for the period beginning on 1-4-2001 and ending on 30-9-2001, in accordance with the then Rule 3 [Vide 1st proviso to sub-rule (9) of the substituted Rule 3 of the Income-tax Rules, 1962].

In relation to assessment year 2001-02 and earlier years, valuation of perquisites is to be determined under the then Rule 3 of the Income-tax Rules, 1962 [For details, refer pp. 87-92 of ITRR 2002-03 (64th Year of Publication)].

Under substituted Rule 3, the valuation of perquisites, in relation to assessment year 2002-03 and subsequent years, is to be made as explained hereafter.

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29. The Board has clarified that "only in respect of options exercised or allotments made after 31-3-2000, will not be regarded as a perquisite [vide para 19.2 of Circular No. 794, dt. 9-8-2000: 245 ITR (St.) 21-39].

30. For guidelines regarding Employees' Stock Option Plan or Scheme issued by the Central Government under proviso to section 17(2)(iii), refer Notification No. S.O. 1021(E), dt. 11-10-2001: 251 ITR (St.) 230.

31. "Value" means the difference between the fair market value and the cost for acquiring specified securities.

32. "Specified security" will have the same meaning as in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and includes employees' stock option and 'sweat equity shares'. 'Sweat equity shares' means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

33. "Cost" means the amount actually paid for acquiring specified securities and where no money has been paid, the cost shall be taken as nil.

34. Refer footnote No. 38 on page 82.

(i) Value of perquisite in respect of residential accommodation:

[Refer Rule 3(1) of the Income-tax Rules, 1962]

The value of residential accommodation[35] provided by the employer during the previous year is to be determined on the basis provided in the Table I below:—

TABLE-I

Sl. No.	*Circumstances*	*Where the accommodation[35] is unfurnished*	*Where the accommodation[35] is furnished*
(1)	(2)	(3)	(4)
(1)	Where the **accommodation[35] is provided by Union or State Government** to their employees either holding office or post in connection with the affairs of Union or State or serving with any body or undertaking under the control of such Government on deputation	Licence fee determined by Union or State Government in respect of accommodation in accordance with the rules framed by that government as reduced by the rent actually paid by the employee	The value of perquisite as determined under col. (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(2)	Where the **accommodation[35] is provided by any other employer** and		
	(a) where the **accommodation[35] is owned by the employer,** or	(i) 10% of salary in cities having population exceeding 4 lacs as per 1991 census; (ii) 7.5% of salary in other cities, in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee	The value of perquisite as determined under col. (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
	(b) where the **accommodation[35] is taken on lease or rent** by the employer	Actual amount of lease rental paid or payable by the employer or 10% of salary whichever is lower as reduced by the rent, if any, actually paid by the employee	
(3)	Where the **accommodation[35] is provided by the employer specified in Sl. No. (1) or (2) above in a hotel[36]** (except where the employee is provided such accommodation for a period not exceeding in aggregate 15 days on his transfer from one place to another)	Not applicable	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee.

Provided that nothing contained in this sub-rule would be applicable to any accommodation located in a 'remote area'[37] provided to an employee working at a mining site or an onshore oil exploration site, or a project execution site or an accommodation provided in an offshore site of similar nature:

Provided further that where on account of his transfer from one place to another, the employee is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower value with reference to the Table above for a period not exceeding 90 days and thereafter the value of perquisite shall be charged for both such accommodations in accordance with the Table.

35. "accommodation" includes a house, flat, farm house or part thereof, or accommodation in the hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure [Vide clause (i) of the *Explanation* to Rule 3].

36. "hotel" includes licensed accommodation in the nature of motel, service apartment or guest house [Vide clause (iii) of the *Explanation* to Rule 3].

37. "remote area", means an area that is located at least 40 kilometers away from a town having a population not exceeding 20,000 based on latest published all-India census [Vide clause (v) of the *Explanation* to Rule 3].

For Judges of the High Court & Supreme Court:

The value of rent-free official residence provided to a judge or the allowance paid to him shall not be included in computing the income chargeable under the head "Salaries". Refer High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1980 [127 ITR(St.) 47].

For Officers of Parliament:

The value of rent-free furnished residence (including maintenance thereof) provided to an officer of Parliament shall not be included in the computation of his income chargeable under the head "Salaries" u/s. 15 of the Income-tax Act, 1961. Refer Salaries and Allowances of Officers of Parliament (Amendment) Act, 1990 [185 ITR (St.) 47].

"Salary" defined for the purposes of Rule 3(1):

[Refer clause (vi) of the *Explanation* to Rule 3]

'Salary' includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:—

(a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(b) employer's contribution to the provident fund account of the employee;

(c) allowances which are exempted from payment of tax;

(d) the value of perquisites specified in sub-section (2) of section 17 of the Income-tax Act;

(e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17.

It may be noted that, in relation to period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(a) & 3(b) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(A) & 2(B) on pp. 87-89 of ITRR 2002-03 (64th Year of Publication).

EXAMPLE: Shri Joshi is an employee of M/s. A. & Co. Ltd. at Mumbai. During the financial year ending on 31-3-2004, he is in receipt of the following:

1.	Salary Rs. 10,000 per month	Rs. 1,20,000
	Dearness allowance (not eligible for computation of superannuation or retirement benefits)	Rs. 24,000
	Bonus equivalent to 2 months' salary	Rs. 20,000
	Entertainment allowance	Rs. 12,000
	Conveyance allowance	Rs. 6,000

2. Perquisite:

He is also provided with furnished accommodation at Mumbai. The cost of furniture and household appliances allowed for use of the employee is Rs. 48,000. Rent for accommodation paid by him to M/s. A & Co. Ltd. is Rs. 12,000.

The value of perquisite in respect of furnished accommodation is to be adopted as under:

If the accommodation is owned by M/s. A. & Co. Ltd. at Mumbai:

10%* of Rs. 1,52,000 (Salary, Bonus & Entertainment allowance)		Rs. 15,200
Add: 10% of the cost of furniture and household appliances Rs. 48,000	Rs. 4,800	
	Rs. 20,000	
Less: Rent for accommodation paid by Mr. Joshi to M/s. A. & Co. Ltd.	Rs. 12,000	
Value of perquisite		Rs. 8,000

If the accommodation is taken on lease or rent by M/s. A & Co. Ltd. at Mumbai and amount of actual lease rental paid by M/s. A & Co. Ltd. is Rs. 15,000:

1.	Actual amount of lease rental paid by M/s. A & Co. Ltd.		Rs. 15,000
2.	10% of Rs. 1,52,000 (Salary, Bonus & Entertainment allowance)		Rs. 15,200
	Lower of 1 & 2 above		Rs. 15,000
	Add: 10% of the cost of furniture and household appliances Rs. 48,000	Rs. 4,800	
		Rs. 19,800	
	Less: Rent for accommodation paid by Mr. Joshi to M/s. A & Co. Ltd.	Rs. 12,000	
	Value of perquisite		Rs. 7,800

* If in the above example, accommodation is in a city having population of 4 lacs or less as per 1991 census, then, instead of 10% of salary, 7.5% of salary is to be adopted.

(ii) Value of perquisite in respect of use of motor car:

[Refer Rule 3(2) of the Income-tax Rules, 1962]

[From 1-4-2001 to 31-3-2005]

[Assessment years 2002-03 to 2005-06]

(A) The value of perquisite provided by way of use of motor car is to be determined on the basis provided in the Table-II below:

TABLE-II

Value of perquisite per calendar month

Sl. No.	*Circumstances*	*Where cubic capacity of engine does not exceed 1.6 litres*	*Where cubic capacity of engine exceeds 1.6 litres*
(1)	Where the motor car is **owned or hired by the employer** and —		
	(a) is **used wholly and exclusively** in the performance of his **official duties**	No value provided that the documents specified in clause (B) of this sub-rule [Refer page 83] are maintained by the employer	No value provided that the documents specified in clause (B) of this sub-rule [Refer page 83] are maintained by the employer.
	(b) is **used exclusively** for the **private or personal purposes** of the employee or any member of his household[38] and the running and maintenance expenses are met or reimbursed by the employer	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.
	(c) is **used partly in the performance of duties and partly for private or personal purposes** of his own or any member of his household[38] and		
	(i) the expenses on maintenance and running are met or reimbursed by the employer	Rs. 1200 (*plus* Rs. 600, if chauffeur is also provided to run the motor car)	Rs. 1600 (*plus* Rs. 600, if chauffeur is also provided to run the motor car).
	(ii) the expenses on running and maintenance for such private or personal use are fully met by the assessee (employee)	Rs. 400 (*plus* Rs. 600, if chauffeur is provided by the employer to run the motor car)	Rs. 600 (*plus* Rs. 600, if chauffeur is also provided to run the motor car).
(2)	Where the **employee owns a motor car** but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and		
	(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	No value provided that the documents specified in clause (B) of this sub-rule [Refer page 83] are maintained by the employer	No value provided that the documents specified in clause (B) of this sub-rule [Refer page 83], are maintained by the employer.
	(ii) such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee or any member of his household[38]	Subject to the provisions contained in clause (B) of this sub-rule [Refer page 83], the actual amount of expenditure incurred by the employer as reduced by the amount specified in col. (1)(c)(i) above	Subject to the provisions contained in clause (B) of this sub-rule [Refer page 83], the actual amount of expenditure incurred by the employer as reduced by the amount specified in col. (1)(c)(i) above.
(3)	Where the **employee owns any other automotive conveyance** but the actual running and maintenance charges are met or reimbursed to him by the employer and		
	(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	No value provided that the documents specified in clause (B) of this sub-rule [Refer page 83] are maintained by the employer	Not applicable.
	(ii) such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee	Subject to the provisions contained in clause (B) of this sub-rule [Refer page 83], the actual amount of expenditure incurred by the employer as reduced by an amount of Rs. 600	Not applicable.

38. "member of household" includes: (a) spouse(s); (b) children and their spouses; (c) parents; & (d) servants and dependents [Vide clause (iv) of the *Explanation* to Rule 3].

Provided that **where one or more motor cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor car or all or any of such** motor cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car in accordance with item (1)(c)(i) of the Table-II *[Refer page 82]* as if the employee had been provided one motor car for use partly in the performance of his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars in accordance with item (1)(b) of the Table-II *[Refer page 82]* as if he had been provided with such car or cars exclusively for his private or personal purposes.

(B) Where the employer or the employee claims that the motor car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor car owned by the employee for official purposes is more than the amounts deductible in items (2)(ii) or (3)(ii) of the Table-II *[Refer page 82],* he may claim a higher amount attributable to such official use and the value of perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled:—

(a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;

(b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties (This condition is applicable w.e.f. 1-8-2002);

(c) the employee gives a certificate that the expenditure was incurred wholly and exclusively for the performance of his official duty (This condition is applicable upto 31-7-2002);

(d) the supervising authority of the employee, wherever applicable, gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties (This condition is applicable upto 31-7-2002).

Explanation.— For the purposes of this sub-rule, the normal wear and tear of a motor car shall be taken at 10 per cent per annum of the actual cost of the motor car or cars.

It may be noted that, in relation to period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(c) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(C) on pp. 90-91 of ITRR 2002-03 (64th Year of Publication).

EXAMPLE **(i)**: From 1-4-2003 to 31-3-2004, employer has provided to an employee a motor car with a chauffeur. The said motor car is owned/hired by the employer. Cubic capacity of the engine of the said motor car does not exceed 1.6 litres. The motor car is used by the employee partly in the performance of his duties and partly for personal/ private purposes of his own or any member of his household. The expenses on maintenance and running are borne by the employer. The employee is not in receipt of any other benefits or perquisites from employer other than use of a motor car. The salary of an employee is Rs. 12,000 per month for the year ending 31-3-2004. Salary inclusive of perquisite will be as under:

1.	Salary Rs. 12,000 per month for the year ending 31-3-2004			Rs. 1,44,000
2.	Perquisite in respect of motor car [Vide Rule 3(2)]:			
	For use of motor car . . Rs. 1,200 p.m. × 12 months	Rs. 14,400		
	In respect of chauffeur . . Rs. 600 p.m. × 12 months	Rs. 7,200	Rs. 21,600	
	Gross salary subject to deductions u/s.16(i)(A) & 16(iii) (for profession tax paid)			Rs. 1,65,600

EXAMPLE **(ii)**: The employee owns a motor car. The cubic capacity of engine of the motor car does not exceed 1.6 litres. The car is self driven by the employee and used partly for official purposes and partly for personal purposes. The running and maintenance charges in respect of both the purposes amounting to Rs. 36,000 per annum is reimbursed by the employer. Actual expenses on running and maintenance of the motor car for official purposes incurred by the employee is Rs. 17,500 and conditions specified in clause (B) of Rule 3(2) are fulfilled. Salary of the employee is Rs. 10,000 per month for the year ending 31-3-2005. Salary inclusive of perquisite will be as under:

1.	Salary @ Rs. 10,000 p.m. for the year ending 31-3-2005			Rs. 1,20,000
2.	Perquisite in respect of motor car:			
	Running & maintenance charges reimbursed by the employer		Rs. 36,000	
	Carried over. .		Rs. 36,000	Rs. 1,20,000

	Brought over. . . .		Rs. 36,000	Rs. 1,20,000
Less: (a)	Amount specified in col. (1)(c)(i) of Table II: Rs. 1200 p.m. × 12 month	Rs. 14,400		
	OR			
(b)	Actual expenses on running & maintenance for official purposes incurred by the employee [vide clause (B) of Rule 3(2)]	Rs. 17,500		
	Higher of (a) & (b) is deductible [vide clause (B) of Rule 3(2)]		Rs. 17,500	Rs. 18,500
	Gross salary income subject to deductions u/s. 16 (i)(A) & 16(iii) (for profession tax paid) . .			Rs. 1,38,500

Note : The value of conveyance facilities and the sumptuary allowance provided to a judge shall not be included in computing the income chargeable under the head "Salaries" with effect from 1-11-1986. Refer High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1988 [173 ITR (St) 89].

(iii) The use of a motor car by an employee from his residence to his normal place of his duties and back:

The use of the employer's vehicle for journey by the employee from his residence to his office or other place of work, or from such office or place to his residence, will not be regarded as benefit or amenity granted by the employer and hence value of perquisite will be "nil" [*Explanation* to section 17(2)(iii)].

(iv) Where transport is provided for a group of employees to the place of employment:

Where transport is provided by the employer for a group of employees for the purposes of going from residence to the place where the duties of employment are to be performed and *vice versa,* the value of perquisite, in my opinion, in such cases will be "nil" as there is no provision in Rule 3(2) for the valuation of such perquisite.

(v) Services of a sweeper, a gardener, a watchman or a personal attendant provided to employee:

[Refer Rule 3(3) of the Income-tax Rules, 1962]

The value of benefit to the employee or any member of his household[39] resulting from the provision by the employer of services of a sweeper, a gardener, a watchman or a personal attendant, will be the actual cost to the employer. Actual cost in such a case will be the amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by the amount paid by the employee for such services.

It may be noted that, in relation to period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(ba) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(F) on page 91 of ITRR 2002-03 (64th Year of Publication).

(vi) Gas, Electric energy or Water supplied to employee:

[Refer Rule 3(4) of the Income-tax Rules, 1962]

The value of this perquisite will be as under:—

(a) where gas, electric energy or water are supplied to the employee for his household consumption, the value of benefit will be taken to be the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water;

(b) where such supply is made from resources owned by the employer, without purchasing them from any other outside agency (e.g., employer generating its own power), the value of perquisite would be the manufacturing cost per unit incurred by the employer.

The value of perquisite so arrived at as in (a)/(b) is to be reduced to the extent of amount paid by the employee in respect of such services.

It may be noted that, in relation to period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(d) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(G) on page 91 of ITRR 2002-03 (64th Year of Publication).

Gas, electricity and water charges paid by the employer in so far they are for the protection of the property (e.g., outside lighting) or are connected with the accommodation set apart by the employer for the occupation of guests is not to be regarded as perquisite from the employer.

(vii) Free or concessional educational facilities:

[Refer Rule 3(5) of the Income-tax Rules, 1962]

The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household[39] shall be as under:

(a) where the educational institution is not maintained and owned by the employer, amount of expenditure incurred by the employer for such facilities will be chargeable in the employee's hands as a perquisite;

39. "member of household" includes: (a) spouse(s); (b) children and their spouses; (c) parents; & (d) servants and dependents [Vide clause (iv) of the *Explanation* to Rule 3].

(b) where the educational institution is maintained and owned by the employer, the value of perquisite to the employee will be determined with reference to the cost of such education in a similar institution in or near the locality. However, if the cost of such education per child does not exceed Rs. 1,000 per month, the value of perquisite will be 'nil'.

(c) where free educational facilities for member of employee's household[40] are allowed in any other educational institution by reason of his being in employment of that employer, the value of the perquisite to the employee will be determined with reference to the cost of such education in a similar institution in or near the locality. However, if the value of such benefit per child does not exceed Rs. 1,000 per month, value of perquisite will be 'nil'.

The value of perquisite so arrived at as in (a)/(b)/(c) is to be reduced to the extent of amount paid or recovered from the employee in respect of such educational facilities.

However, in relation to the period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(e) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(H) on page 92 of ITRR 2002-03 (64th Year of Publication).

It may be noted that specific allowances in the nature of "Children education allowance" and "Allowances to meet the hostel expenditure on children" granted to the employee are exempt u/s. 10(14)(ii) read with Rule 2BB(2) of the Income-tax Rules, 1962. For gist of the said rule, refer page 71.

(viii) Free/concessional transport to employees by an undertaking engaged in the carriage of passengers/goods:

[Refer Rule 3(6) of the Income-tax Rules, 1962]

Where any undertaking engaged in the carriage of passengers or goods has made a provision for private or personal journey free of cost or at concessional fare to any of its employee or to any member of his household[40], in any conveyance owned, leased or made available by any other arrangement by the undertaking for the purpose of transport of passengers or goods, the value at which such benefit or amenity is offered by such undertaking to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity, will be perquisite in the hands of the employee. However, journey tickets for leave travel, tours and transfers which are already exempt u/s. 10(5) and 10(14) would continue to be exempt [Vide sub-para VI of para 5.1 of Circular No. 15, dt. 12-12-2001: 253 ITR (St.) 1-13].

In respect of an employee being an employee of the Railways, the provisions of Rule 3(6) shall not apply [Proviso to Rule 3(6)].

Further, in respect of an employee being an employee of an airline, the provisions of Rule 3(6) shall not apply [Vide amended proviso to Rule 3(6) read with 2nd proviso to Rule 3(9)].

It may be noted that, in relation to period from 1-4-2001 to 30-9-2001, an employee has an option to value this perquisite under the then Rule 3(f) [Vide 1st proviso to Rule 3(9)]. For details, refer sub-item 2(I) on page 92 of ITRR 2002-03 (64th year of Publication).

(ix) Value of other fringe benefits or amenities:

[Refer Rule 3(7) of the Income-tax Rules, 1962]

Section 17(2)(vi) provides that the value of any other fringe benefit or amenity as may be prescribed will be treated as perquisite in relation to assessment year 2002-03 and subsequent years. Sub-rule (7) of Rule 3 of the Income-tax Rules, 1962 has prescribed the following fringe benefits or amenities for the purpose of section 17(2)(vi):

(a) IN RESPECT OF INTEREST-FREE OR CONCESSIONAL LOAN *[Rule 3(7)(i)]: W.e.f.* 1-4-2004[40a], the value of the benefit to the assessee (i.e., employee) resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any member of his household[40] during the relevant previous year by the employer or any person on his behalf, shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it, on the maximum outstanding monthly balance[42] as reduced by the interest, if any, actually paid by employee or any such member of his household.[40].

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40. "member of household" includes: (a) spouse(s); (b) children and their spouses; (c) parents; & (d) servants and dependents [Vide clause (iv) of the *Explanation* to Rule 3].

40a. Prior to 1-4-2004, the value of the benefit to the assessee (employee) resulting from the provision of interest-free or concessional loan made available to the employee or any member of his household[40] during the relevant previous year by the employer or any person on his behalf will be the sum equal to the simple interest computed:

(1) at the rate of 10% per annum in respect of loans for acquiring house and conveyance[41], and

(2) at the rate of 13% per annum for other loans [other than (1) above],

on the maximum outstanding monthly balance[42] as reduced by the interest, if any, actually paid by employee or any such member of his household[40].

41. The Board has clarified that "In the case of loans taken for repairs, renovation, etc. *(other than for acquiring such capital assets)*, higher rate of 13% would be applicable for calculation of perquisite" [Vide Para 5.1 VII] of Circular No. 13, dt. 23-12-2002: 259 ITR (St.) 23].

42. "maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month [Vide clause (vii) of the *Explanation* to Rule 3].

No value will be charged as perquisite if such loans are made available for medical treatment in respect of diseases specified in Rule 3A. However, the exemption shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

No value will be charged as perquisite where the amount of loans are petty not exceeding in the aggregate Rs. 20,000.

EXAMPLE: M/s. X & Co. Limited has advanced interest-free loan of Rs. 1,50,000 on 1-12-2003 to its employee Shri A for purchase of house. Shri A has to repay this loan in 10 monthly equal instalments of Rs. 15,000 starting from 1-1-2004. The value of perquisite in respect of loan for house for assessment year 2004-05 is as under:

Amount of instalment paid	Instalment paid on	Maximum outstanding monthly balance	Interest @ 10% p.a. From to	Amount of interest
Rs. Nil ..	N.A. ..	Rs. 1,50,000 on 31-12-03 ..	1-12-03 to 31-12-03 ..	Rs. 1,250
Rs. 15,000 ..	1-1-04 ..	Rs. 1,35,000 on 31-01-04 ..	1-01-04 to 31-01-04 ..	Rs. 1,125
Rs. 15,000 ..	1-2-04 ..	Rs. 1,20,000 on 29-02-04 ..	1-02-04 to 29-02-04 ..	Rs. 1,000
Rs. 15,000 ..	1-3-04 ..	Rs. 1,05,000 on 31-03-04 ..	1-03-04 to 31-03-04 ..	Rs. 875
Value of perquisite in respect of interest-free loan for house for assessment year 2004-05				Rs. 4,250

(b) IN RESPECT OF TRAVELLING, TOURING, ETC. *[RULE 3(7)(ii)]:* The value of travelling, touring, accommodation[43] and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household[44], not being concession or assistance referred to in Rule 2B [refer item (c) on page 92], will be the sum equal to the amount of the expenditure incurred by the employer in that behalf.

Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit will be taken to be the value at which such facilities are offered by other agencies to the public.

Where the employee is on official tour and the expenses are incurred in respect of any member of his household[44] accompanying him, the amount of expenditure so incurred will also be a fringe benefit or amenity to the employee.

Where any official tour is extended as a vacation, the value of such fringe benefit will be limited to expenses incurred in relation to such extended period of stay or vacation.

The amount as determined in above paras is to be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(c) IN RESPECT OF FREE MEALS *[RULE 3(7)(iii)]:* The value of free meals provided by the employer to an employee will be the amount of expenditure incurred by the employer. The amount so determined is to be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

The value will be 'nil' if free meals are provided by the employer during office hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints subject to condition that the value thereof in either case is upto Rs. 50 per meal.

The value will be 'nil' in respect of: (1) tea or snacks provided during office hours, and (2) free meals during working hours provided in a remote area[45] or an offshore installation.

(d) IN RESPECT OF ANY GIFT, VOUCHER OR TOKEN *[RULE 3(7)(iv)]:* The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household[44] on ceremonial occasions or otherwise, the value of perquisite will be the sum equal to the amount of such gift. If the value of such gift, voucher or token is below Rs. 5,000 in the aggregate during the previous year, the value of perqusite will be 'nil'.

(e) IN RESPECT OF CREDIT CARD *[RULE 3(7)(v)]:* The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household[44], which is charged to a credit card (including add-on-card), provided by the employer or otherwise, paid for or reimbursed by the employer will be taken to be value of perquisite chargeable to tax.

43. "accommodation" includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure [Vide clause (i) of the *Explanation* to Rule 3].

44. "member of household" includes: (a) spouse(s); (b) children and their spouses; (c) parents; & (d) servants and dependents [Vide clause (iv) of the *Explanation* to Rule 3].

45. "remote area" means an area that is located at least 40 kilometers away from a town having a population not exceeding 20,000 based on latest published all-India census [Vide clause (v) of the *Explanation* to Rule 3].

The amount as determined above will be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

The value of such benefit will be 'nil', if expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled:

(1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure;

(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties [This condition is applicable w.e.f. 1-8-2002];

(3) it is certified by the employee that such expenditure was incurred wholly and exclusively for the performance of official duty [This condition is applicable upto 31-7-2002];

(4) the supervising authority of the employee certifies that such expenditure was incurred wholly and exclusively for the performance of official duties [This condition is applicable upto 31-7-2002];

(5) where an employee incurs expenditure on entertainment[46] and claims the same to have been incurred wholly and exclusively in the performance of his duties, details of such entertainment expenses, *inter alia*, include nature and purpose of such entertainment and persons entertained [This condition is applicable upto 31-7-2002].

(f) IN RESPECT OF CLUB FEES/EXPENDITURE *[RULE 3(7)(vi)]:* The value of benefit in respect of any expenditure incurred (including annual or periodical fee) in a club by an employee or by any member of his household[47], the actual amount of expenditure paid or reimbursed by the employer on that account will be the perquisite. The amount of perquisite so determined is to be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity. *In respect of corporate membership of the club obtained by the employer, the value of perquisite will not include initial fee paid for acquiring such corporate membership.*

The perquisite value will be 'nil' if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled:

(1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its business expediency;

(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties [This condition is applicable w.e.f. 1-8-2002];

(3) it is certified by the employee that such expenditure was incurred wholly and exclusively for the performance of official duty [This condition is applicable upto 31-7-2002];

(4) the supervising authority of the employee certifies that such expenditure was incurred wholly and exclusively for the performance of official duties [This condition is applicable upto 31-7-2002];

(5) where an employee incures expenditure on entertainment[46] and claims the same to have been incurred wholly and exclusively for the performance of his duties, details of such entertainment expenses, *inter alia*, include the nature and purpose of entertainment, persons entertained and business expediency for such entertainment [This condition is applicable upto 31-7-2002].

The perquisite value will also be 'nil' in respect of use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(g) IN RESPECT OF USE OF MOVEABLE ASSET BY AN EMPLOYEE *[Rule 3(7)(vii)]*: The value of benefit from the use by the employee or any member of his household[47] of any moveable asset [other than assets specified in Rule 3 and other than laptops and computers] belonging to the employer or hired by him will be @10% per annum of the actual cost of such asset or the amount of rent or charge paid or payable by the employer, as the case may be, as reduced by the amount, if any, paid or recovered from the employee for such use.

(h) IN RESPECT OF TRANSFER (SALE) OF ANY MOVEABLE ASSET TO AN EMPLOYEE *[Rule 3(7)(viii)]:* The value of benefit from the transfer (sale) of any moveable asset belonging to the employer directly or indirectly to the employee or any member of his household[47] will be the amount representing the actual cost of such asset to the employer as reduced by the cost of normal wear and tear calculated @10% of such cost for each completed year during which such asset was put to use by the employer and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer (sale).

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46. "entertainment" includes hospitality of any kind and also, expenditure on business gifts other than free samples of the employer's own product with the aim of advertising to the general public [Vide clause (ii) of the *Explanation* to Rule 3].

47. "member of household" includes: (a) spouse(s); (b) children and their spouses; (c) parents; & (d) servants and dependents [Vide clause (iv) of the *Explanation* to Rule 3].

However, in the case of computers and electronic items (not being household appliance), the normal wear and tear will be calculated @ 50% (instead of @ 10%) and in the case of motor cars @ 20% (instead of @ 10%) by the reducing balance method.

(x) Value of any other benefit or amenity, service, right or privilege:

[Refer Rule 3(8) of the Income-tax Rules, 1962]

The value of any other benefit or amenity, service, right or privilege provided by the employer, the value of perquisite is to be determined on the basis of cost to the employer under an arms' length transaction as reduced by employee's contribution, if any.

The perquisite value will be 'nil' in respect of expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer.

The perquisite value will be 'nil' also in respect of periodicals and journals provided to the employee for discharge of his work [Vide sub-para XV of para 5.1 of Circular No. 15, dt. 12-12-2001: 253 ITR (St.) 1-16].

It may be noted that the value of a benefit or amenity is to be included in the total income when it is actually granted or provided to the employee. In cases where any benefit or amenity due to an employee under the terms of service is waived by him, the value of the benefit or amenity not enjoyed will not be included in his total income. Likewise, the value of any benefit or amenity granted free of cost or at a concessional rate will be exempt in the case of an employee referred to in item (iii) (c) on page 78, unless the benefit or amenity is of a obligatory nature referred to in item (v) on page 79.

Note: For valuation of reimbursement of medical expenses/medical facilities by the employer, refer item 4(i) on page 89.

2. ASSESSMENT YEAR 2001-02:

For the purpose of computing the income chargeable under the head "Salaries", it is necessary to determine the value of the perquisites which are not provided by way of monetary payment to the employee. The mode of valuation of such perquisites has accordingly been prescribed under Rule 3 [i.e., under the then Rule 3] of the Income-tax Rules, 1962. For the notes on the then Rule 3, refer pp. 87-92 of ITRR 2002-03 (64th Year of Publication).

3. *TAX PAID BY EMPLOYER ON NON-MONETARY PERQUISITES PROVIDED TO EMPLOYEE, TAX SO PAID NOT TO BE ADDED AS PERQUISITE:*

[Section 10 (10CC) read with sections 40(a)(v), 192(1A)/(1B), 195A, proviso to section 198, 199(2), 200(2), 201(1) & 203(2)]

If an employer pays (i.e., bears) tax on salary income of an employee, the tax so paid will be treated as perquisites and added to the salary income of the employee by grossing up u/s. 195A.

From assessment year 2003-04 and onwards, section 10(10CC) provides that employer may, at his option, pay the tax on non-monetary perquisites within the meaning of section 17(2) (refer pp. 78-79). The tax so paid will be exempt and will not be added as perquisite of an employee being an individual. It may be noted that the tax so paid by the employer will not be deductible as expenditure from business or professional income of the employer [Section 40(a)(v)].

W.e.f. 1-6-2002, in respect of such perquisites, employer has an option to pay tax on whole or part of such income and the tax so paid is not deductible at source from the employee's salary [Section 192(1A)].

However, w.e.f. 1-6-2002, the employer has to pay the tax on such perquisites at the average rate of income-tax in force for the financial year on salary income, including the non-monetary perquisites [Section 192(1B)]. The tax so paid by the employer will be deemed to be tax deducted at source from salary income. The tax so paid by the employer will not be deemed to be income of the employee under proviso to section 198. Credit for such tax paid by the employer will be given to the employee on the production of certificate [Form No.16] furnished by employer u/s. 203(2)[47a] [Section 199(2)]. The tax so payable by the employer u/s. 192(1A) is to be paid within the time prescribed under Rule 30 (1A)[48] [Section 200(2)]. For failure to pay whole or part of tax payable u/s. 192(1A), interest u/s. 201(1A) and penalty u/s. 271C(1)(a) is leviable.

EXAMPLE: For the financial year ending on 31-3-2004, income under the head "Salaries" of Mr. A, is Rs. 1,20,000 which includes Rs. 20,000 non-monetary perquisites provided by the employer M/s. X & Co. Under section 192(1A), M/s. X & Co. opts to pay tax on whole part of such perquisites. Computation of tax payable by M/s. X & Co. u/s. 192(1B) and tax to be deducted at source from Mr. A's salary u/s. 192(1) is as under:

47a. For the notes on amendment made in section 203 by the Finance (No. 2) Act, 2004, refer item (3) on page 39.

48. All sums paid u/s. 192(1A) shall be paid to the credit of the Central Government: (a) in the case of payment on behalf of the Government, on the same day; and (b) in all other cases, within one week from the last day of each month on which income-tax is due u/s. 192(1B) [Vide Rule 30 (1A)].

Salary of Mr. A from M/s. X & Co.		Rs. 1,00,000
Add: Non-monetary perquisites provided by M/s. X & Co.		Rs. 20,000
Base for deduction u/s. 16(i)		Rs. 1,20,000
Less: Standard deduction u/s. 16(i)(A): @ 40% of Rs. 1,20,000	Rs. 48,000	
Maximum deduction restricted u/s. 16(i)(A)		Rs. 30,000
Income chargeable under the head "Salaries"		Rs. 90,000
Income-tax on Rs. 90,000		Rs. 7,000
Less: Rebate of (deduction from) income-tax u/s. 88: Contribution to provident fund	Rs. 5,000	
Deduction @ 20% of Rs. 5,000		Rs. 1,000
Income-tax*		Rs. 6,000
Average rate of income tax [Rs. 6,000 (I.T.) ÷ Rs. 90,000 (income chargeable under the head "Salaries")] u/s. 192(1B)		0.06666
Income-tax* payable by M/s. X & Co. on non-taxable perquisites Rs. 20,000 i.e., Rs. 20,000×0.06666 average rate of I.T.		Rs. 1,333
Tax payable by M/s. X & Co. u/s. 192(1A)		Rs. 1,333
Tax to be deducted by M/s. X & Co. from Mr. A's salary (Rs. 6,000 *less* Rs. 1,333) u/s. 192(1)		Rs. 4,667

*As the income chargeable under the head "Salaries" does not exceed Rs. 8,50,000, surcharge on income-tax is not deductible.

Note: Mr. A will be allowed credit of tax at source Rs. 6,000 [Rs. 4,667 being tax deducted at source from salary by M/s. X & Co. (vide section 199(1)) *plus* Rs. 1,333 being tax paid (borne) by M/s. X & Co. (vide section 199(2))].

4. ASSESSMENT YEAR 2001-02 AND ONWARDS:

(i) Valuation of reimbursement of medical expenses/medical facilities by the employer:

[Refer 1st proviso to section 17(2)]

The value of reimbursement of medical expenses to an employee/provision of medical facilities by an employer to an employee is exempt from tax under the 1st proviso to section 17(2). Under the said proviso exemption from tax will be available in respect of:

(1) medical facilities provided to an employee or any member of his family[49] in any hospital[50] maintained by the employer;

(2) reimbursement, by the employer, of expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family[49] —

(a) in any hospital[50] maintained by the Government or any local authority or an approved hospital[50] under Central Health Scheme or a similar scheme of any State Government,

(b) in respect of the prescribed diseases or ailments[51], in any hospital[50] approved by the Chief Commissioner, subject to the condition that the employee attaches with his return of income a certificate from the said hospital specifying the disease or ailment for which medical treatment was required as well as receipt of the amount paid to the hospital;

(3) group medical insurance taken by the employer for his employees or reimbursement of medical insurance premium paid by the employee on his health or on the health of any member of his family[49] under scheme approved u/s. 80D;

(4) reimbursement by employer of actual expenditure incurred by an employee for medical treatment from any doctor in respect of the employee, or any member of the family[49] of such employee, not exceeding in the aggregate Rs. 15,000 in the previous year;

(5) actual expenditure incurred by the employer on medical treatment of the employee or any member of the family[49] of such employee, outside India.

49. "family" in relation to an employee means—

(1) the spouse and children of the employee; and

(2) the parents, brothers and sisters of the employee or any of them, wholly or mainly dependent on the employee.

50. "hospital" includes a dispensary or a clinic or a nursing home.

51. For the prescribed diseases or ailments, in any approved hospital, refer rule 3A of the Income-tax Rules. For text of Rule 3A refer page 96 of ITRR 1998-99 (60th Year of Publication).

The expenditure incurred by the employer on travel and stay abroad of the patient and one attendant is also exempt from tax subject to the condition that—

(a) the expenditure on medical treatment and stay abroad will be exempt only to the extent permitted by the Reserve Bank of India, and

(b) the expenditure on travel is exempt only in the case of an employee whose gross total income, *as computed before including therein the said expenditure,* does not exceed Rs. 2,00,000;

(6) reimbursement of expenditure by the employer in respect of any expenditure actually incurred by the employee for any of the purposes mentioned in (5) above subject to the conditions specified therein.

(ii) Perquisites and allowances which are wholly or partially exempt:

(a) House rent allowance from the employer:

The Income-tax Act, 1961, provides for relief to employees who receive house rent allowance from their employers subject to certain limits and conditions.

The relevant section and rule, for ready reference is given below:—

Section 10(13A): Any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent as may be prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations.

Explanation.— For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

(a) the residential accommodation occupied by the assessee is owned by him; or

(b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him.

Rule 2A of the Income-tax Rules, 1962:

Limits for the purposes of section 10(13A):— The amount which is not to be included in the total income of an assessee in respect of the special allowance referred to in clause (13A) of section 10 shall be—

(a) the actual amount of such allowance received by the assessee in respect of the relevant period; or

(b) the amount by which the expenditure actually incurred by the assessee in payment of rent in respect of residential accommodation occupied by him exceeds one-tenth of the amount of salary due to the assessee in respect of the relevant period; or

(c) an amount equal to —

(i) where such accommodation is situate at Bombay, Calcutta, Delhi or Madras, one-half of the amount of salary due to the assessee in respect of the relevant period; and

(ii) where such accommodation is situate at any other place, two-fifths of the amount of salary due to the assessee in respect of the relevant period,

whichever is the least of (a), (b) and (c).

Explanation.— In this rule—

(i) "salary"[52] shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule;

(ii) "relevant period" means the period during which the said accommodation was occupied by the assessee during the previous year.

Rule 2 (h) of Part A of the Fourth Schedule:

"salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

An employee is entitled to claim the exemption u/s. 10(13A) when all the following conditions are fulfilled:

(i) the allowance from the employer must be specific to meet expenditure on payment of rent,

(ii) the residential accommodation occupied by the employee is not owned by him, and

(iii) the actual payment of rent by the employee should exceed 10% of his salary.

52. The term "salary" includes "dearness pay" also in the case of Government servants [Circular No. 90 dt. 26-6-72: 85 ITR (St.) 34].

Examples for exemption of House rent allowance received from the employer:

(i): Mr. A who is employed by M/s. B & Co. Ltd. is in receipt of salary (exclusive of benefits and perquisites) of Rs. 72,000 per annum. He pays rent of Rs. 3,900 per month (Rs. 46,800 per annum). He is in receipt of house rent allowance from employer at Rs. 3,600 per month (Rs. 43,200 per annum). He is not in receipt of any other benefits or perquisites from employer other than house rent allowance.

IF THE ACCOMMODATION IS SITUATED AT BOMBAY, CALCUTTA, DELHI OR MADRAS				*IF THE ACCOMMODATION IS SITUATED AT ANY PLACES OTHER THAN BOMBAY, CALCUTTA, DELHI OR MADRAS*			
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Annual salary (exclusive of benefits and perquisites)			72,000	Annual salary (exclusive of benefits and perquisites)			72,000
House rent allowance received		43,200		House rent allowance received		43,200	
Less: Exemption u/s. 10(13A) read with Rule 2A:				*Less:* Exemption u/s. 10(13A) read with Rule 2A:			
(a) House rent allowance received	43,200			(a) House rent allowance received	43,200		
	Rs.				Rs.		
(b) Actual rent paid	46,800			(b) Actual rent paid	46,800		
Less: 1/10th of salary	7,200	39,600		*Less:* 1/10th of salary	7,200	39,600	
(c) One-half of salary	36,000			(c) Two-fifths of salary	28,800		
Least of (a), (b) & (c) is exempt		36,000	7,200	Least of (a), (b) & (c) is exempt		28,800	14,400
Salary income subject to deduction[53]			79,200	Salary income subject to deduction[53]			86,400

(ii): Mr. A who is employed by M/s. B & Co. Ltd. is in receipt of salary (exclusive of benefits and perquisites) of Rs. 54,000 per annum. He pays rent of Rs. 1,500 per month (Rs. 18,000 per annum). He is in receipt of house rent allowance from employer at Rs. 1,000 per month (Rs. 12,000 per annum). He is not in receipt of any other benefits or perquisites from employer other than house rent allowance.

IF THE ACCOMMODATION IS SITUATED AT BOMBAY, CALCUTTA, DELHI OR MADRAS				*IF THE ACCOMMODATION IS SITUATED AT ANY PLACES OTHER THAN BOMBAY, CALCUTTA, DELHI OR MADRAS*			
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Annual salary (exclusive of benefits and perquisites)			54,000	Annual salary (exclusive of benefits and perquisites)			54,000
House rent allowance received		12,000		House rent allowance received		12,000	
Less: Exemption u/s. 10(13A) read with Rule 2A:				*Less:* Exemption u/s. 10(13A) read with Rule 2A:			
(a) House rent allowance received	12,000			(a) House rent allowance received	12,000		
	Rs.				Rs.		
(b) Actual rent paid	18,000			(b) Actual rent paid	18,000		
Less: 1/10th of salary	5,400	12,600		*Less:* 1/10th of salary	5,400	12,600	
(c) One-half of salary	27,000			(c) Two-fifths of salary	21,600		
Least of (a), (b) & (c) is exempt		12,000	NIL	Least of (a), (b) & (c) is exempt		12,000	NIL
Salary income subject to deduction[53]			54,000	Salary income subject to deduction[53]			54,000

NOTES: (1) It may be noted that the tax exemption under section 10(13A) is available in cases where an employee resides in a rented house/flat and not in a house/flat owned by him [*Explanation* to section 10(13A)].

(2) Employees who are not in receipt of house rent allowance from their employers but who pay rent for their residential accommodation in excess of 10% of their total income are entitled to claim deduction under section 80GG (refer page 216).

(b) Conveyance and travelling allowance:

Under section 10(14), any special allowance or benefit, not being in the nature of a perquisite within the meaning of section 17(2), is exempt from tax, if specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as may be prescribed, to the extent to which such expenses are actually incurred for that purpose. Allowance like conveyance and travelling are treated as income under section 2(24)(iiia) & 2(24)(iiib).

53. Under sections 16(i), 16(iii), 80CCC, 80D, 80DD, 80DDB & 80E.

The Central Board of Direct Taxes is empowered to prescribe the allowances and the extent thereof which would be exempt under section 10(14). Accordingly, the Board has framed Rule 2BB prescribing the allowances which are exempt u/s. 10(14). For gist of this rule, refer pp. 70-72.

(c) Value of travel concession in India:

Under section 10(5), leave travel concession received by, or due to, an employee *(whether citizen of India or not)* for himself and his family[54] in connection with his proceeding on leave or on retirement or termination of service, to any place in India is exempt from tax subject to following conditions:

(1) The Central Board of Direct Taxes is empowered to frame rules [Refer Rule 2B hereafter] which will lay down the cases and the circumstances in which the value of the travel concession or assistance received for journey to any place in India during leave or on retirement or termination of service would qualify for exemption under section 10(5). The Board will also lay down in the said rules the conditions regarding number of journeys and the amount of exemption per head.

(2) The exemption will be limited to the amount of expenses actually incurred by the employee for the purpose of such travel. Thus, the employee will be required to keep an account of the actual expenditure incurred per person in the family and furnish evidence of such expenditure when he avails of the leave travel concession under section 10(5). If the employee has not incurred any expenditure, exemption under section 10(5) will not be allowed in respect of leave travel concession received from the employer.

Rule 2B. Conditions for the purpose of section 10(5).—

(1) The amount exempted under clause (5) of section 10 in respect of the value of travel concession or assistance received by or due to the individual from his employer or former employer for himself and his family, in connection with his proceeding,–

(a) on leave to any place in India;

(b) to any place in India after retirement from service or after the termination of his service,

shall be the amount actually incurred on the performance of such travel subject to the following conditions, namely:–

(i) where the journey is performed on or after the 1st day of October, 1997 by air, an amount not exceeding the air economy fare of the National Carrier by the shortest route to the place of destination;

(ii) where places of origin of journey and destination are connected by rail and the journey is performed on or after the 1st day of October, 1997 by any other mode of transport other than by air, an amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination; and

(iii) where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed on or after 1st day of October, 1997 between such places, the amount eligible for exemption shall be—

(A) where a recognised public transport system exists, an amount not exceeding the first class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and

(B) where no recognised public transport system exists, an amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.

(2) The exemption referred to in sub-rule (1) shall be available to an individual in respect of two journeys performed in a block of four calendar years commencing from the calendar year 1986[55]:

Provided that nothing contained in this sub-rule shall apply to the benefit already availed of by the assessee in respect of any number of journeys performed before the 1st day of April, 1989 except to the extent that the journey or journeys so performed shall be taken into account for computing the limit of two journeys specified in this sub-rule.

(3) Where such travel concession or assistance is not availed of by the individual during any such block of four calendar years, an amount in respect of the value of the travel concession or assistance, if any, first availed of by the individual during first calendar year of the immediately succeeding block of four calendar years shall be eligible for exemption.

Explanation.—The amount in respect of the value of the travel concession or assistance referred to in this sub-rule shall not be taken into account in determining the eligibility of the amount in respect of the value of the travel concession or assistance in relation to the number of journeys under sub-rule (2).

(4) The exemption referred to in sub-rule (1) shall not be available to more than two surviving children of an individual after 1st October, 1998:

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54. Under *Explanation* to section 10(5) of the Income-tax Act, "family", in relation to an individual, means—

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

It may be noted that under sub-rule (4) to rule 2B, after 1-10-1998, the exemption is to be restricted to two surviving children of an individual. However, this restriction of two surviving children will not apply in respect of children born before 1-10-1998 and also in case of multiple births after one child.

55. Accordingly, 1st block of four years will commence from the calendar year 1986 and will end on calendar year 1989 (i.e., from 1-1-1986 to 31-12-1989), 2nd block of four years will be from 1-1-1990 to 31-12-1993, 3rd block of four years will be from 1-1-1994 to 31-12-1997, 4th block of four years will be from 1-1-1998 to 31-12-2001 and 5th block of four years will be from 1-1-2002 to 31-12-2005.

Provided that this sub-rule shall not apply in respect of children born before 1st October, 1998, and also in case of multiple births after one child.

(d) Value of free or concessional passage out of India to a person who is not a citizen of India:

Assessment years 2000-01 to 2002-03:

Under section 10(6)(i), the passage moneys or the value of any free or concessional passage received by or due to an individual who is not a citizen of India, from his employer for himself, his spouse and children, in connection with his proceeding on home leave out of India or in connection with his proceeding to his home country out of India after retirement from service in India or after the termination of such service is exempt from tax subject to conditions notified under Notification No. G.S.R. 72(E) dated 10th Feb., 1977 [106 ITR (St.) 52].

From assessment year 2003-04 and onwards, passage moneys or the value of any free or concessional passage received by a foreign employee from his employer is not exempt from tax in view of ommission of section 10(6)(i) w.e.f. 1-4-2003.

PROFITS IN LIEU OF SALARY:

Under section 17(3), profits in lieu of salary includes—

(a) the amount of any compensation due to or received by an employee from his employer or former employer at or in connection with the termination of his employment or modification of the terms and conditions relating thereto;

(b) any payment, due to or received by an employee from an employer or a former employer or from a provident fund or other fund, to the extent to which it *does not* consist of contributions by the employee or interest on such contributions *or* any sum received, on or after 1-10-1996, by an employee under a 'Keyman insurance policy' including the sum allocated by way of bonus on such policy.

However, any payment referred to in clauses (10), (10A), (10B), (11), (12), (13) or (13A) of section 10, due to or received by an employee is not profits in lieu of salary;

(c) w.e.f. 1-4-2002 (assessment year 2002-03 and onwards), any amount due to or received, whether in lump sum or otherwise, by any assessee from any person: (1) before his joining any employment with that person; or (2) after cessation of his employment with that person.

SALARIES OF FOREIGN TECHNICIANS

Foreign technicians whose services in India commences after 31-3-1993:

[Section 10(5B)]

Upto assessment year 2002-03:

"Technician" means a person having specialised knowledge and experience in constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or in the agricultural, animal husbandry, dairy farming, deep sea fishing or ship building, or such other field as may be notified by the Central Government.

Such 'technician' should be in the employment of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of section 10(5B) by the prescribed authority or in any business carried on in India.

In the case of such technician, where the tax on his income for such services chargeable under the head "Salaries" is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956), the tax so paid by the employer will not be treated as perquisite in the hands of such technician for a period of forty-eight months from the date of his arrival in India.

The exemption of said perquisite is subject to the condition that such technician is an individual (irrespective of citizenship) and should not have been resident in India [as defined under section 6(1)] in any of the four financial years immediately preceding the financial year of his arrival in India.

However, under proviso to section 10(5B), the Central Government has been empowered to waive the condition regarding residence in India in the immediately preceding four years in cases where it considers necessary or expedient to do so in the public interest. This provision is applicable in the case of a technician for designing, erection or commissioning of machinery or plant or supervising activities connected therewith.

In view of omission of section 10(5B), w.e.f. 1-4-2003 (assessment year 2003-04 and onwards), such tax paid by the employer in relation to salary paid during the financial year ending on 31-3-2003 and subsequent years will be treated as perquisite and grossed up u/s. 195A.

DEDUCTIONS FROM "SALARIES"

DEDUCTIONS PERMISSIBLE UNDER SECTION 16 FOR THE ASSESSMENT YEAR 2001-02 & ONWARDS:

(1) Standard deduction: [Section 16(i)]

Separate deduction will not be available in respect of expenditure on books, expenditure on travelling for the purpose of employment and expenditure incidental to employment. Instead, a standard deduction will be allowed in respect of the above mentioned items of expenditure for various assessment years as under:

Assessment year . .	Standard deduction:
2004-05 & 2005-06. .	in the case of an employee whose income from salary, before allowing deduction u/s. 16(i)— (a) does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(A) is 40% of salary subject to a maximum of Rs. 30,000; and (b) exceeds Rs. 5,00,000, standard deduction u/s. 16(i)(B) is Rs. 20,000.
2002-03 & 2003-04. .	in the case of an employee whose income from salary, before allowing deduction u/s. 16(i)— (a) does not exceed Rs. 1,50,000, standard deduction u/s. 16(i)(A) is 33⅓% of salary subject to a maximum of Rs. 30,000; (b) exceeds Rs. 1,50,000 but does not exceed Rs. 3,00,000, standard deduction u/s. 16(i)(B) is Rs. 25,000; (c) exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(C) is Rs. 20,000; and (d) exceeds Rs. 5,00,000, standard deduction allowable is Rs. 'nil' as the provisions of section 16(i) are not applicable.
2001-02 . .	in the case of an employee whose income from salary, before allowing deduction u/s. 16(i)— (a) does not exceed Rs. 1,00,000, standard deduction u/s. 16(i)(a) is 33⅓% of salary subject to a maximum of Rs. 25,000; (b) exceeds Rs. 1,00,000 but does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(b) is Rs. 20,000; and (c) exceeds Rs. 5,00,000, standard deduction allowable is Rs. 'nil' as the provisions of section 16(i) are not applicable.

For the purpose of standard deduction, the term "salary" includes fees, commission, perquisites, gratuity, etc. but excludes any payment which are specifically exempt under various provisions of the Income-tax Act.

Where the employee is in receipt of "salary" from more than one employer or has changed jobs during the course of the year, then, the standard deduction is to be computed with reference to the aggregate amount of salary due, subject to ceiling limit specified in the chart above and not in respect of each employment separately.

The pensioners and the employees in receipt of conveyance allowance are also entitled to standard deduction as stated above.

This standard deduction is to be claimed before allowing any deductions permissible under Chapter VI-A of the Act.

Employers are requested to note that they can allow the standard deduction subject to monetary ceiling while computing the tax to be deducted at source from "Salaries", during the financial year 2004-05 relevant to assessment year 2005-06 as per chart above.

Employers are also requested to note that while deducting tax from "Salaries" of their employees deduction on account of profession tax paid by the employees is to be considered while computing the taxable salary during the financial year 2004-05 [Refer section 16(iii) and item (3) on page 95].

(2) Entertainment allowance: [Section 16(ii)]

Entertainment allowance received by an employee will first be included in employee's income under the head "Salary" and thereafter a deduction therefrom is permissible subject to the conditions and limits laid down under section 16(ii). From assessment year 2002-03 and onwards, entertainment allowance received, by an employee of a non-Government employer, is not eligible for deduction u/s. 16(ii) and hence said allowance received by such employee will be taxed as income under the head "Salaries".

(3) Tax on employment: [Section 16(iii)]

Any sum paid by an employee on account of the tax on employment (i.e., profession tax) which is levied by a State Government is allowable as deduction from the salary of the employee provided it has been paid by him [Section 16(iii)].

Employers can allow deduction for the profession tax paid by the employee while computing the tax to be deducted at source from "Salaries".

DEDUCTION OF TAX AT SOURCE FROM "SALARIES"

Under section 192[56], tax should be deducted at source on "Salary" payments if the annual estimated income under this head exceeds the maximum amount not liable to tax. The obligation to deduct the tax lies on the employer or the person responsible for the payment of salary. For this purpose, the employer should make an estimate of the total emoluments payable to an employee during the financial year after taking into account the increment or arrears of pay which are expected to be paid during that financial year.

It may be noted that under section 192, the tax on salary is to be deducted at the rates applicable to the estimated salary for the entire relevant financial year and where an employee has during that year worked under more than one employer, then in order to facilitate proper deduction of tax at source from the aggregate salary due or received in the same year, the employee may furnish in the prescribed Form No. 12B, to one of the said employer as he may choose, details of the salary due or received from such other employer or employers during that year and also the tax deducted therefrom.

Where an employee having any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property") for the same financial year,[57] *he may send to his employer, a statement of particulars of such other income and the tax, if any, deducted thereon and also the loss, if any, under the head "Income from house property" [this statement is to be accompanied by verification as prescribed in substituted Rule 26B(2)] [Vide substituted Rule 26B]. When such statement of particulars are sent by the employee, the employer shall take that also into account for deducting tax at source.* In case particulars regarding income under other heads of income are furnished, the employer has to ensure that the tax deductible from the salary except for the loss under the head "Income from house property" is in no case reduced by including the income from other heads of income and the tax deducted thereon [Vide section 192(2) & 192(2B)].

A government servant or an employee in a company, co-operative society, local authority, university, institution, association or body, if he is entitled to relief under section 89 (refer page 74), he may furnish to the employer the prescribed particulars in the prescribed Form No. 10E. If he does so, the employer shall compute the relief under section 89 on the basis of such particulars and take it into account while deducting tax at source [Vide section 192(2A)].

W.e.f. 1-6-2001, a person responsible for paying salary (i.e., employer) is required to furnish to the employee to whom such payment is made, a statement giving correct and complete particulars of perquisites and/or profits in lieu of salary provided to him and the value thereof in the prescribed Form No. 12BA[58] (if the amount of salary paid or payable to the employee is more than Rs. 1,50,000)/Form No. 16 (if the amount of salary paid or payable to the employee is not more than Rs. 1,50,000) [Section 192 (2C)]. For failure to furnish such statement will attract penalty of Rs. 100 for every day during which the failure continues [Section 272A(2)*(i)*].

From the estimated salary income so computed, deduct: (1) standard deduction admissible u/s. 16(i), which is to be allowed irrespective of whether any expenditure incidental to the employment is actually incurred by the employee or not, and (2) profession tax paid by the employee.

The resultant income is the gross salary income which is subject to the following deductions:

(1) under section 80CCC in respect of contribution to certain pension funds as explained on page 211 [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-116];

(2) under section 80D on account of payment of medical insurance premia (Mediclaim) made by the employee as explained on page 211 [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-116];

(3) under section 80DD in respect of expenditure incurred on the handicapped dependant/dependant with disability as explained on page 211 [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-117];

(4) under section 80DDB in respect of medical treatment, etc. as explained on page 213;

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56. For the notes on sub-sections (1A) & (1B) of section 192, refer item 3 on page 88.

57. Upto 30-9-2003, for the words and sentence in italics "he may send . . . . . for deducting tax at source", read "he may furnish in the prescribed Form No. 12C to his employer particulars of such other income and the tax, if any, deducted thereon and also the loss, if any, under the head "Income from house property". When such particulars in the prescribed form are furnished by the employee, the employer shall take that also into account for deducting tax at source" [the then Rule 26B].

58. W.e.f. 1-6-2002, Form No. 12BA is to be furnished by the employee alongwith the return of income.

(5) under section 80E in respect of repayment of loan taken for higher education as explained on page 214 [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-118];

(6) under section 80G in respect of specified donations made by the employee [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-119]; and

(7) under section 80GG in respect of payment of rents made by the employee as explained on page 216 [Vide Circular No. 9, dt. 18-11-2003. Refer 264 ITR (St.) 93-120].

The balance figure so arrived at is the taxable salary (Refer *Example* on page 278).

The income-tax on the taxable "salary" so arrived at should be computed at the rates in force during the financial year. Such rates are specified in Part III of the First Schedule to the Finance Act of the relevant financial year.

The income-tax so computed should be further reduced by the following rebates[58a], which are allowable:

(a) under section 88 at specified percentage [for details, refer item (5) on page 237] of the aggregate amount of life insurance premia, contributions to provident fund, contribution to Public Provident Fund Account, subscription to National Savings Certificates VIII issue[59], deposits made under the Post Office Savings Bank (Cumulative Time Deposit) Rules, contributions made for participation in the Unit-Linked Insurance Plan of Unit Trust/LIC Mutual fund, payment for the purchase or construction of a residential house, subscription to notified deposit scheme (i.e., Home Loan Account Scheme[60]) of the National Housing Bank, subscription to equity shares/debentures/units of mutual fund referred to in section 10(23D), forming part of an approved eligible issue of capital, etc. [for details, refer pp. 237-242],

(b) under section 88B, in the case of an assessee resident in India, who has **attained age of 65 years** at any time during the previous year, additional tax rebate @ 100% of the income-tax payable subject to a limit of Rs. 20,000 (Rs. 15,000, in relation to assessment years 2001-02 to 2003-04), and

(c) under section 88C, in the case of a **woman assessee** resident in India, and who is below the age of 65 years at any time during the previous year, additional tax rebate @ 100% of the income-tax payable subject to a limit of Rs. 5,000 in relation to assessment year 2001-02 and subsequent years.

Rebate u/s. 88B & 88C is to be allowed before allowing the tax rebate u/s. 88.

The resultant amount of income-tax so arrived at shall be increased by surcharge on income-tax, if any, and the aggregate amount so arrived at should then be deducted in equal instalments from the salary of each month [For *Example,* refer page 278].

It may be that some arrears of pay, bonus, etc., which were not anticipated to be paid during the financial year when the tax computation was made are subsequently paid during the course of that financial year or the payments which were expected to be made are not made. This will entail re-computation of the tax deductible at source. Sub-section (3) of section 192, therefore, permits the employer to adjust any short or excess deduction in the remaining months of that year.

The tax deducted at source from the income under the head "Salary" is a sort of tax recovered in advance. To avoid loss of revenue on this account, the deduction of tax at source, i.e., at the point where the salary is paid, is mandatory.

An employee having taxable income[60a] is required to file his return of income. Failure to file such return by 'due date' as prescribed in section 139(1)[61] [for details, refer pp. 197-198], will attract penal interest u/s. 234A @1%, [@1¼%, from 1-6-2001 to 7-9-2003; @1½%, from 1-6-1999 to 31-5-2001; @ 2%, upto 31-5-1999] p.m. or part of a month on tax determined u/s. 143(1) or 143(3) *less* advance tax paid, if any, and tax deducted at source, from 1st August to the date of *ex-parte* assessment u/s. 144. In addition, for the failure to file return of income before the end of the assessment year will attract [may attract, w.e.f. 1-6-2002] penalty under section 27IF. For assessment year 2004-05, if return of income is filed after 31-3-2005, penalty of Rs. 5,000 may be levied u/s. 271F [For details, refer page 204].

58a. For the notes on rebate under new section 88D inserted by the Finance (No. 2) Act, 2004, refer para 9.2 on page 339.

59. The interest on National Savings Certificate VIII Issue is deemed to be reinvested and, therefore, the holder thereof is entitled to rebate of (deduction from) income-tax u/s. 88. The employer can allow rebate of (deduction from) income-tax u/s. 88 in respect of such accrued interest on NSC VI Issue/VIII Issue [Vide Circular No. 9, dt. 18-11-2003: 264 ITR (St.) 93-122]. For details and *Examples* refer pp. 237-242.

60. Vide Notification No. S.O. 850(E), dt. 25-10-1989 [181 ITR (St.) 228].

60a. For the notes on new section 71(2A) inserted by the Finance (No. 2) Act, 2004, refer para 4.2 on page 44.

61. W.e.f. 1-4-2002 (assessment year 2002-03 and onwards), section 139(1A) provides that an individual receiving salary income may, at his option, furnish his return of income to his employer, in accordance with and subject to the conditions specified in the notified scheme i.e., Scheme for Bulk Filing of Returns by Salaried Employees, 2002 [256 ITR (St.) 13]/Scheme for Filing of Returns by Salaried Employees through Employer, 2004 [265 ITR (St.) 35]. The employer in turn shall furnish all such returns filed by the employees in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as specified in the said scheme. The employee in such a case will be deemed to have furnished a return of income u/s. 139(1).

WHEN IS THE TAX DEDUCTED FROM SALARIES TO BE CREDITED TO THE CENTRAL GOVERNMENT?

Rule 30 of the Income-tax Rules, 1962, lays down that the tax deducted at source shall be paid to the credit of the Central Government:

(a) in the case of deduction by or on behalf of Government, on the same day;

(b) in all other cases—

(i) within one week from the last day of the month in which the deduction is made [Applicable from 31-7-2003 and onwards],

(ii) within one week from the date of such deduction [Applicable upto 30-7-2003].

The employers deducting tax at source have to file returns for tax deducted at source. For further details, refer "Chart for deduction of tax at source" on pp. 343-345.

CONSEQUENCES FOR FAILURE TO DEDUCT TAX OR PAY THE TAX SO DEDUCTED

Under section 201, if the person responsible for the deduction of tax at source has defaulted without reasonable cause or excuse in his obligation to deduct the whole or any part of the tax at source or after deducting fails to pay the tax to the credit of the Central Government, he shall be deemed to be an assessee in default in respect of such tax and shall be liable to:

(i) simple interest under section 201(1A) at 12% p.a. [15% p.a., from 1-6-2001 to 7-9-2003; 18% p.a., from 1-6-1999 to 31-5-2001; 15%, upto 31-5-1999] on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid,

(ii) penalty under section 221 not exceeding the amount of such tax,

(iii) for failure to deduct the whole or any part of the tax, penalty equal to the tax that should have been deducted will be levied under section 271C, and

(iv) prosecution u/s. 276B for failure to pay the tax deducted at source to the credit of the Central Government.

INCOME FROM HOUSE PROPERTY

[For assessment year 2002-03[1] and onwards]

(Sections 22 to 27)

(i) House property:

A house property consists of buildings or lands appurtenant thereto. The land may be in the form of a court yard or compound forming part and parcel of the building. Such land is to be distinguished from a purely open plot of land. Any rent received from such a vacant plot is not assessable as "Income from house property" but as "Income from other sources" which is chargeable under section 56.

(ii) House property used for business or profession:

Section 22 excludes from its charge income from any house property or any portion thereof which is occupied by the owner for the purposes of his business or profession. The expenditure incurred by the owner on such property by way of current repairs, municipal taxes, etc., can be claimed as a deduction against his income from business or profession. Depreciation in respect of such property can also be claimed as a deduction against such income. Further, when a property consisting of residential quarters is let-out by an assessee to his employees and such letting out is subservient and incidental to the carrying on of the assessee's business, the income from such property is assessable under the head "Profits and gains from business or profession" and not under the head "Income from house property".

(iii) Person liable to tax under the head income from house property:

Under section 22, it is the owner who is chargeable to tax in respect of income under this head. In addition, under section 27, the following are deemed to be owners:—

(1) When an individual transfers without adequate consideration any house property owned by him to his or her spouse [not being a transfer in connection with an agreement to live apart] or to a minor child not being a married daughter, the legal ownership in respect of that property would vest in the spouse or minor child after such transfer. However, the income from the property so transferred would be assessed in the hands of the individual who transferred the property despite the cessation of his legal ownership [Section 27(i)].

(2) The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate [Section 27(ii)].

(3) A member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the said society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof [Section 27(iii)].

(4) A person who is allowed to take or retain possession of any building or part thereof in part performance of a contract to buy [Section 27(iiia)].

(5) A person who acquires any rights in or with respect to any building or part thereof by way of sale or exchange or lease for a term not less than 12 years, excluding any rights by way of lease from month to month or for a period not exceeding one year [Section 27(iiib)].

(iv) Annual value of a house property: [Section 23(1)]

(1) BONAFIDE ANNUAL VALUE:

(a) The bonafide annual value of a property is the starting point for the computation of income from house property. Section 23(1)(a) lays down that the annual value of a property is the sum for which the property could reasonably be expected to let from year to year. The ordinary meaning of the words "to let" is to grant use of for rent or for hire which takes in its sweep the concept of granting use and occupation of a building for a licence fee. What is, therefore, to be seen is the inherent capacity of the property to yield income from year to year. In determining such notional income, several factors have to be taken into consideration, such as actual realisation by way of licence fee, consideration received by the owner such as charges normally payable by the owner being borne by the tenant, the location of the property, the capacity of the property to fetch income depending upon demand and supply position over a period of years, etc.

Municipal valuation is one of the tests to be applied in determining the bonafide value of a property. Under the Municipal Corporation Act, the municipal authorities determine the municipal valuation of a property with reference to the sum for which the property could reasonably be expected to let from year to year. If the property is given on leave and licence basis, the municipal authorities take the licence-fee into consideration for fixing the municipal valuation. Therefore, unless the actual realisation by way of rent or licence-fee is higher than the municipal valuation, the bonafide annual value is ordinarily determined with reference to the municipal rateable value on the basis of which municipal taxes are levied. This is because the municipal rateable value is also determined on the basis of the gross rent of the house property. Some of the

1. For the notes on computation of 'Income from house property' in relation to assessment year 2001-02 and earlier years, refer pp. 93-99 of ITRR 2001-02 (63rd Year of Publication).

municipalities compute the rateable value after deducting from the gross rental value a certain allowance for repairs and service taxes[2]. In such cases, the net municipal rateable value is to be suitably increased in order to determine the bonafide value or the reasonable rent of the property. In cities like Mumbai (Bombay), Madras (Chennai), Delhi and Calcutta (Kolkata), the municipalities compute the rateable value after deducting an allowance of 10% of the gross rateable value on account of repairs. The municipal rateable value is accordingly increased in these cities for income-tax purposes by one-ninth of the rateable value. As regards properties situated in other towns, the amount to be added back to the municipal rateable value depends upon the deduction for repairs allowed by the respective municipalities.

(b) In respect of property which is let wholly or partly, annual value (i.e., bonafide letting value) of such property will be taken to be the sum so arrived at in sub-item (a) above or the actual rent received or receivable[3], whichever is higher [Section 23(1)(b)].

(c) In respect of property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable[3] is less than the sum referred to in sub-item (a) above, the amount so received or receivable will be deemed to be the annual value (i.e., bonafide letting value) of the property [Section 23(1)(c)].

EXAMPLE:— Suppose municipal rateable value of a residential building in Mumbai is Rs. 7,200 but it is let-out on a compensation of Rs. 9,600 per annum. The bonafide letting value will be either the compensation receivable or the gross rateable value computed on the basis of municipal rateable value, whichever is higher, as illustrated below:

(1) Compensation receivable			Rs. 9,600
(2) Rateable value	Rs. 7,200		
Add: 1/9th of Rs. 7,200	Rs. 800	Rs. 8,000	
The bonafide letting value u/s. 23(1)(b) will be higher of the two, viz.			Rs. 9,600

(2) ANNUAL VALUE:

From the bonafide letting value determined in the manner indicated in item (1) above, a deduction is to be made under proviso to section 23(1) on account of property taxes levied by a local authority. The amount so arrived at is the *annual value of a house property.*

However, the deduction for local taxes levied by a local authority will be allowed in the previous year in which the *taxes are actually paid* by the assessee. It has been specifically provided that even if in a previous year taxes relating to more than one year are paid, the entire payment will be allowed as a deduction as explained in the *Examples* given hereunder:

EXAMPLE 1: For assessment year 2004-05, municipal rateable value of a building in Mumbai is Rs. 9,000. The municipal taxes payable thereon is Rs. 2,500, but the owner had not paid it before 31-3-2004.

Rateable value	Rs. 9,000		
Add: 1/9th of Rs. 9,000	Rs. 1,000	Rs. 10,000	
Less: Municipal taxes Rs. 2,500 inadmissible since not paid before 31-3-2004		Rs. Nil	
Annual value		Rs. 10,000	

EXAMPLE 2: In assessment year 2005-06, the owner pays the arrear of last year's and the current year's municipal taxes aggregating Rs. 5,000. The annual value will be:

Rateable value	Rs. 9,000		
Add: 1/9th of Rs. 9,000	Rs. 1,000	Rs. 10,000	
Less: Municipal taxes paid during the year (for assessment years 2004-05 and 2005-06)		Rs. 5,000	
Annual value		Rs. 5,000	

2. The municipality first determines the gross rent of a house property. From such gross rent, the following expenses are first deducted:—
   (i) if the property is fitted with a lift, liftman salary and cost of electricity consumed, and
   (ii) if it is fitted with electric water pump, the pumpman salary.

From the balance, the municipality allows deductions on account of service taxes, such as sewerage tax and water tax.

3. 'Actual rent received or receivable' will not include the amount of rent which the owner cannot realise in the circumstances as prescribed in rule 4 of the Income-tax Rule, 1962 [*Explanation* to section 23(1)].

Under the said rule 4, the amount of rent which the owner cannot realise shall be equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where,–

(a) the tenancy is *bonafide;*

(b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;

(c) the defaulting tenant is not in occupation of any other property of the assessee; and

(d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

EXAMPLE 3: The municipal rateable value of a residential building situated in Mumbai city is Rs. 3,600. Repair cess levied at 63% (the property being residential and classified by the Bombay Municipality as category 'B' building is not structurally repaired by the Board) is Rs. 2,268.

ASSESSMENT YEAR 2004-05:

Municipal taxes levied and paid during the financial year 2003-04:			Taxes levied by the State Government:	
General tax	Rs.	1,080	State education cess[4]	Rs. 180
Sewerage tax	Rs.	1,404	Repair cess	Rs. 2,268
Education cess	Rs.	432		
Sewerage benefit tax	Rs.	270		
	Rs.	3,186		Rs. 2,448

The annual value of the property will be as under:				
Municipal rateable value				Rs. 3,600
Add: 1/9th of Rs. 3,600				Rs. 400
Bonafide letting value				Rs. 4,000
Less: Municipal taxes (excluding State education/repair cess) actually paid				Rs. 3,186
Annual value of the property				Rs. 814
Less: Deductions allowable under section 24(a):				
@ 30% of annual value Rs. 814	Rs.	244		
Repair cess paid[5]	Rs.	Nil[5]		
State education cess[5]	Rs.	Nil[5]		Rs. 244
Net property income				Rs. 570

(v) Self-occupied property:
[Section 23(2), 23(3) & 23(4)]

(A) The annual value of a house or part of a house shall be taken to be 'nil', if—

(1) it is in the occupation of the owner for the purposes of his own residence; or

(2) it cannot actually be occupied by the owner due to his employment, business or profession carried on at any other place and he has to reside at that place in a building not belonging to him [Section 23(2)].

It may be noted that, where the annual value of the house is taken to be 'nil', as discussed above, then, deduction shall be allowed only in respect of interest payable, not exceeding Rs. 30,000 on funds borrowed for the purpose of acquiring, constructing, repairing, renewing or reconstructing the said self-occupied property [vide 1st proviso to section 24(b)].

However, where such a house has been acquired or constructed with capital borrowed on or after 1-4-1999 and such acquisition or construction is completed–

(a) within three years from the end of the financial year in which capital was borrowed (applicable in relation to assessment year 2003-04 and subsequent years),

(b) before 1-4-2003 (applicable in relation to assessment year 2002-2003),

then, interest payable not exceeding Rs. 1,50,000 shall be allowed [vide 2nd proviso to section 24(b)]. It may be noted that there is no stipulation regarding the date of commencement. Consequently, the construction of the residential unit could have commenced before 1-4-1999 but, as long as its acquisition/ construction is completed, before period/time specified in (a)/(b) above, interest payable not exceeding Rs. 1,50,000 will be allowed as deduction.

However, in relation to assessment year 2003-04 and onwards, deduction under 2nd proviso to section 24(b) is subject to condition that the assessee furnishes a certificate, from the person to whom such interest is payable on capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquistion or construction of the property, or, conversion of the whole or any part of the capital borrowed which is outstanding as a new loan. "New loan" for this purpose means the whole or any part of the loan taken by the assessee subsequent to capital borrowed, for the purpose of repayment of such capital [vide 3rd proviso to section 24(b) read with *Explanation* thereto].

(B) The annual value of a house or part of a house, referred to in (A) above, *shall not be taken to be nil, if* —

(1) the house or part of the house is actually let during the whole or any part of the previous year; or

(2) the owner derives any other benefit from that house [Section 23(3)].

The annual value in respect of such a house will be computed under section 23(1) in the manner and method explained in item (iv) on pp. 98-99.

4. The percentage of State education cess vary in accordance with the amount of rateable value fixed by the Bombay Municipality.

5. Repair cess/State education cess are in the nature of taxes levied by the State Government and not by a local authority, hence not deductible under proviso to section 23(1). However, upto assessment year 2001-02 such taxes levied by the State Government were deductible under the then clause (vii) of section 24(1).

(C) Where two or more than two houses are in the occupation of owner for the purposes of his own residence, then, the annual value u/s. 23(2) shall be taken to be 'nil' only in respect of any one house of his choice. The annual value of the remaining house or houses used for self-occupation by the owner will be computed u/s. 23(1) in the manner and method explained in item (iv) on pp. 98-100 as if the said house/houses were let-out [Section 23(4)].

EXAMPLE 1: Shri Shah owns a house in Mumbai which was let-out by him from 1-4-2003 to 30-6-2003 i.e., for three months. The compensation received during these 3 months was Rs. 6,000. Since 1-7-2003 it was in the occupation of Shri Shah. The municipal rateable value of the property is Rs. 21,600. The income from house property will be as under:

Municipal rateable value	Rs. 21,600
Add: 1/9th of Rs. 21,600	Rs. 2,400
	Rs. 24,000
Less: Full municipal taxes actually paid during the year	Rs. 6,000
Annual value of the property under section 23(1) read with section 23(3)[6]	Rs. 18,000
Less: Deduction under section 24(a):	
@ 30% of annual value Rs. 18,000	Rs. 5,400
Property income	Rs. 12,600

EXAMPLE 2: During the financial year 2003-04, Shri Roy is a member of the Union Co-operative Housing Society and has been allotted a flat, the municipal valuation of which is Rs. 20,000. The society submits bills to individual members every year for the maintenance expenses including municipal taxes, ground rent, etc. etc. Shri Roy has also paid his proportionate share of interest amounting to Rs. 17,000 in respect of loan borrowed by the society for construction. His other sources of income are Rs. 65,000 and Rs. 30,000 on account of interest on fixed deposits with various companies and interest on fixed deposits with banks, respectively.

The total income for the assessment year 2004-05 is computed as under:

1.	Property income/loss:		
	Annual value (being self-occupied)		Rs. [7]NIL
	Less: Deduction under 1st proviso to section 24(b):		
	Interest on borrowings by the society (Mr. Roy's proportionate share)		Rs. 17,000
	Loss in respect of house property		Rs. 17,000
2.	Other sources of income:		
	Interest on fixed deposits with companies	Rs. 65,000	
	Interest on fixed deposits with banks	Rs. 30,000	Rs. 95,000
	Less: Set-off of loss in respect of property income u/s. 71(1)[8]		Rs. 17,000
	Gross total income		Rs. 78,000
	Less: Deduction under Chapter VI-A:		
	Under section 80L(1) in respect of interest from banks:		
	Maximum permissible deduction under section 80L(1), restricted to		Rs. 12,000
	Taxable income		Rs. 66,000

(vi) Loss from house property:

From assessment year 1999-2000 & onwards:

Loss in respect of house property whether let-out or self-occupied can be set off under section 71(1) & 71(2) against any other head of income in the same assessment year.

Loss arising on account of any deduction admissible under section 24 such as interest on borrowings for the purpose of acquiring the property will not be ignored and is eligible for the set off in the same assessment year.

Loss under the head "Income from house property" which cannot be wholly set-off, against income from any other heads of income in the same assessment year, will be allowed to be carried forward and set-off against "Income from house property" of immediately succeeding eight assessment years [Section 71B].

In cases where the property is self-occupied and not let-out during any part of the previous year the annual value of such self-occupied property will be taken at 'nil' and no deduction u/s. 24 will be allowed except the deduction in respect of interest payable on funds borrowed for the purpose of acquiring, constructing, repairing, renewing or reconstructing such self-occupied property. However, the maximum permissible deduction in respect of such interest is Rs. 30,000 [the then 1st proviso to section 24(2)/1st proviso to

6. As the house has been let-out from 1-4-2003 to 30-6-2003, annual value of the house is not to be taken at 'nil' [vide section 23(3)]. Annual value of a house in such a case is to be computed u/s. 23(1).

7. Where house or part of a house is in the occupation of the owner for the purposes of his own residence and which is not let-out during any part of the previous year, the annual value of such house or part of a house is to be taken at 'Nil' [Vide section 23(2) read with section 23(3)].

8. Refer item (vi) hereafter.

section 24(b)]. It may be noted that, the maximum permissible deduction in respect of such interest is Rs. 75,000 (for assessment year 2000-01)/Rs. 1,00,000 (for assessment year 2001-02)/Rs. 1,50,000 (from assessment year 2002-03 and onwards), where such a house has been acquired or constructed with capital borrowed on or after 1-4-1999 and such acquisition or construction is completed before time specified in (a) & (b) of item (v) (A) on page 100 [the then 2nd proviso to section 24(2)/2nd and 3rd proviso to section 24(b)]. To illustrate, where the property (acquired on 1-4-2003) is self-occupied throughout the year, the annual value as stated above is to be taken at 'nil'. If, during assessment year 2004-05, the interest payable by the assessee for constructing such property is Rs. 1,40,000, the loss of Rs. 1,40,000 under the head "Income from house property" can be set off u/s. 71(1)/71(2) against any other head of income in the same assessment year. However, if such interest payable is in excess of Rs. 1,50,000, the loss for the purposes of set off against other heads of income is to be restricted to Rs. 1,50,000.

(vii) Property owned by co-owners:

Section 26 provides that where a house property is owned by two or more persons and their respective shares are determinate, such persons shall not be assessed in respect of such property as an association of persons but the share of each co-owner will be included in his total income.

Where the property is occupied throughout the year by the co-owners for their self-occupation, the annual value falling to the share of each co-owner is to be taken at 'nil' as explained in *Example* 2 on page 101.

(viii) Deductions from house property income: [Section 24]

Upto assessment year 2001-02, the then section 24 provided that income under the head "Income from house property" was to be computed after allowing specified deductions from the annual value determined u/s. 23. The deductions specified u/s. 24 were: (1) in respect of repairs of, and collection of rent from, the property; (2) premium paid to insure the property; (3) annual charge on property; (4) ground rent; (5) interest payable on borrowed capital for acquisition, construction, etc. of property; (6) land revenue and taxes levied by the State Government; (7) vacancy allowance; and (8) irrecoverable rent [For details, refer pp. 98-99 of ITRR 2001-02 (63rd year of Publication)].

From assessment year 2002-03 and onwards, under substituted section 24, the deductions as stated above, except for interest on borrowed capital and vacancy allowance, have been withdrawn. It may be noted that vacancy allowance will be considered at arriving the annual value under substituted section 23.

W.e.f. 1-4-2002 (assessment year 2002-03 and onwards), substituted section 24 provides that the income under the head "Income from house property" is to be computed after making the following deductions from the annual value determined under section 23:

(1) a sum equal to 30% of the annual value determined u/s. 23 [Section 24(a)],

(2) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable[9] on such borrowings [Section 24(b)].

(3) In respect of self-occupied property whose annual value is taken to be 'nil' u/s. 23(2) [For details, refer sub-item (A) of item (v) on page 100], interest not exceeding Rs. 30,000 payable on borrowed capital for the purpose of acquiring, constructing, repairing, renewing or reconstructing such self-occupied property will be allowed as deduction [1st proviso to section 24(b)].

However, where the self-occupied property referred to in section 23(2) is acquired or constructed with capital borrowed on or after 1-4-1999 and such acquisition or construction is completed before period/time specified in (a) & (b) of item (v) (A) on page 100, then interest payable not exceeding Rs. 1,50,000, as against Rs. 30,000, will be allowed as deduction [2nd/3rd proviso to section 24(b)]. It may be noted that there is no stipulation regarding the date of commencement. Consequently, the construction of the residential unit could have commenced before 1-4-1999 but, as long as its acquisition/ construction is completed, before period/time specified in (a) & (b) of item (v)(A) on page 100, interest payable not exceeding Rs. 1,50,000 will be allowed as deduction.

It may further be noted that, interest, if any, payable by an assessee in respect of funds borrowed for the acquisition or construction of house property and pertaining to the period prior to the previous year in which such property has been acquired or constructed, shall be deducted in five equal annual instalments commencing from the previous year in which the house was acquired or constructed and each of the four immediately succeeding previous years. The amount of interest so deductible shall not include any amount of such interest allowed as a deduction under any other provision of the Income-tax Act [*Explanation* to section 24(b)].

EXAMPLE: Shri Shah inherited a house property from his deceased brother who had directed Shri Shah to pay Rs. 4,000 per annum to the widow of the deceased. The rateable value of the building as per municipal valuation is Rs. 36,000. Shri Shah borrowed a sum of Rs. 1,00,000 for the purposes of heavy repairs to the house and paid Rs. 10,000 as interest. Shri Shah has mortgaged the property and the mortgaged amount is spent on the marriage of his daughter and interest paid on the mortgage is Rs. 5,000 per annum. Municipal taxes levied and paid during financial year 2003-04 is Rs. 10,000.

9. The Board has clarified that "Interest on house building advance taken by Central Government servants under the House Building Advances Rules can be allowed as deduction u/s. 24(1)(vi) *[i.e., under the then section 24(1)(vi)/under substituted section 24(b)]* on accrual basis even though such interest is payable later" [Circular No. 363, dt. 24-6-83: 143 ITR (St.) 2].

Assessment year 2003-04:

Rateable value as per municipal valuation			Rs. 36,000
Add: 1/9th of Rs. 36,000			Rs. 4,000
			Rs. 40,000
Less: Municipal taxes levied and paid during the year			Rs. 10,000
Annual value			Rs. 30,000
Less: **Deductions allowable under section 24:**			
(1) @30% of annual value Rs. 30,000 [Sec. 24(a)]	Rs. 9,000		
(2) Premium paid to insure the property against risk of damage [not admissible][10]	Rs. Nil		
(3) Annual charge on the property Rs. 4,000 [not admissible][10]	Rs. Nil		
(4) Ground rent [not admissible][10]	Rs. Nil		
(5) Interest Rs. 10,000 on borrowed capital (for heavy repairs) [Sec. 24(b)]	Rs. 10,000		
(6) Interest Rs. 5,000 on mortgage for marriage of daughter [not admissible][11]	Rs. Nil		
(7) Sum paid on account of land revenue [not admissible][10]	Rs. Nil	Rs.	19,000
Property income			Rs. 11,000

(ix) Special provision for cases where unrealised rent allowed as deduction is realised subsequently:

Recovery of irrecoverable rent allowed as a deduction earlier will be brought to tax in the year of recovery as income from house property. No deduction either under section 23 or section 24 as it stood immediately before its substitution by the Finance Act, 2001, will be allowed from the amount so brought to tax. It is not necessary that the assessee must be the owner of the house property in that year (i.e., the year in which irrecoverable rent is realised) and recovery of such irrecoverable rent can be brought to tax only in the hands of the assessee who availed the benefit of deduction u/s. 24(1)(x) as it stood immediately before its substitution by the Finance Act, 2001 in earlier year or years [Section 25A].

It may be noted that the provisions of section 25A will apply to unrealised rent pertaining to assessment year 2001-02 and earlier years. Unrealised rent pertaining to assessment year 2002-03 and subsequent years, provisions of section 25AA will apply [Refer item (x) hereafter].

EXAMPLE: Mr. Dalal had let-out a house property to Mr. Shah at an annual rent of Rs. 12,000. During assessment years 1981-82, 1982-83 and 1983-84 Mr. Shah failed to pay the rent. In assessment year 1984-85, Mr. Dalal was allowed deduction of Rs. 12,000 only as irrecoverable rent u/s. 24(1)(x). On 31-3-1984 Mr. Dalal sold the house, after evicting Mr. Shah. In assessment year 2004-05, Mr. Dalal recovered Rs. 30,000 inclusive of Rs. 12,000 allowed u/s. 24(1)(x) (out of Rs. 36,000 being the unpaid rent) from Mr. Shah through the Court.

House property income for assessment year 2004-05 of Mr. Dalal will be Rs. 12,000

Notes: (1) No deduction under the then sections 23 or 24 will be allowed from this sum of Rs. 12,000.
(2) In assessment year 2004-05 even though Mr. Dalal does not own the said house, the above sum of Rs. 12,000 will be brought to tax as house property income.
(3) Mr. Dalal cannot claim the sum of Rs. 6,000 (Rs. 36,000 unrealised rent *less* Rs. 30,000 recovered rent), the irrecoverable rent not allowed in earlier years, as deduction under the then section 24(1)(x). This is because no deduction under the then sections 23 or 24 is allowable from this sum of Rs. 12,000.

(x) Unrealised rent received subsequently to be charged to income-tax:

Recovery of unrealised rent from property let to a tenant will be brought to tax in the year of realisation as "Income from house property". It is not necessary that the assessee must be owner of such house property in that year (i.e., the year in which unrealised rent is realised) [Section 25AA].

It may be noted that the provisions of section 25AA will apply to unrealised rent pertaining to assessment year 2002-03 and subsequent years. Unrealised rent pertaining to assessment year 2001-02 and earlier years, provisions of section 25A will apply [Refer preceding item (ix)].

(xi) Special provision for arrears of rent received:

From assessment year 2001-02 and onwards, arrears of rent, in respect of let-out property, received by an assessee and which has not been charged to income-tax for any previous year will be deemed to be income from house property in the previous year of receipt. Such arrears of rent after deducting a sum equal to—

(a) one fourth (i.e., 25%) of such amount for repairs of, and collection of rent from, the property [in relation to assessment year 2001-02],

(b) 30% of such amount [in relation to assessment year 2002-03 and subsequent years],

will be charged to income-tax as income from house property, whether the assessee is the owner of such property in that year or not [Section 25B].

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10. Upto assessment year 2001-02, deductions in respect of these payments was admissible under the then section 24.
11. Since the amount on mortgage is raised for personal expenses, the interest payable thereon is not deductible.

PROFITS AND GAINS OF BUSINESS OR PROFESSION

[From assessment year 2001-02 and onwards]

[Sections 28 to 44D]

(i) Business:

As defined in section 2(13) of the Income-tax Act, "Business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

For the purpose of computing business income, speculation business, if any, carried on by an assessee will be treated as distinct and separate from any other business carried on by him [*Explanation* 2 to section 28].

(ii) Profession:

Under section 2(36), "Profession" is defined to include vocation. Income from the exercise of any profession or vocation which calls for an intellectual or manual skill, falls under this head. It covers cases of doctors, lawyers, chartered accountants, architects, consulting engineers, artists, sculptors, musicians, singers, etc.

(iii) Business or professional income:

Under section 28, following income is assessable as income from business or profession:

(a) profits & gains of business or profession carried on during any part of the previous year [Section 28(i)];

(b) compensation received for:–

(1) modification in, or termination of, managing agency agreement, and

(2) nationalisation of business or property [Section 28(ii)];

(c) income derived by a trade, professional or similar association from specific services performed for its members [Section 28(iii)];

(d) the value of any benefit or perquisite arising from business or profession [Section 28(iv)];

(e) profit on sale of import entitlement licences granted to exporter [Section 28(iiia)];

(f) cash assistance received or receivable by exporter [Section 28(iiib)];

(g) any duty of customs or excise re-paid or re-payable as drawback to exporter [Section 28(iiic)];

(h) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm. However, the amount of salary, remuneration, etc. and/or interest which is disallowed in the hands of the firm u/s. 40(b) and taxed at the flat rate, will be reduced from the salary, etc. and/or interest assessable in the hands of the partner [Section 28(v)];

(i) any sum received, on or after 1-10-1996, under a 'Keyman insurance policy' including the sum allocated by way of bonus on such policy [Section 28(vi)];

(j) from assessment year 2003-04 and onwards, any sum received or receivable in cash or in kind under an agreement or arrangement whether in writing or not for—

(1) not carrying on any activity in relation to any business, or

(2) not sharing any know-how, patent, copyright, trade-mark, licence, franchise, or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

However, provisions contained in *(1)* above will not apply to any sum, received or receivable, in cash or kind, on account of transfer of right to manufacture, produce or process any article or thing or right to carry on any business, which is chargeable as "Capital gains". It will also not apply to any sum received as compensation, from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India [Section 28(va)].

(iv) Receipts deemed to be profits and gains of business or profession:

Under section 28, profits and gains of any business or profession are chargeable to tax provided the business or profession is carried on in that year. However, the following receipts are deemed to be the profits chargeable to tax even though the business or profession to which they relate ceased to be in existence in the year of their receipt:

(a) section 41(1) provides that where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability and subsequently, during any previous year any amount is received by the assessee whether in cash or in any other manner whatsoever in respect of such loss or expenditure or any benefit is obtained in respect of such trading liability by way of remission or cessation thereof, the amount so received or the value of the benefit so obtained shall be deemed to be profits and gains of the business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not. Even successor-in-business receiving the benefit will be taxed on such benefit. For this purpose, where any person is succeeded by any other person in the business or profession of the first mentioned person, the other person will be the successor. Amalgamated company will be the successor

of amalgamating company in the case of amalgamation. Successor firm will be successor, if it succeeds to the business or profession of another firm [*Explanation* 2 to section 41(1)[1]].

In cases where the assessee/successor-in-business writes off unilaterally loss or expenditure or trading liability, such remission or cessation will be deemed to be profits and gains of business or profession. It is not necessary that the other party to the transaction, like a trade creditor, should abandon his claim before the remission can be deemed as profits and gains of business or profession [*Explanation* 1 to section 41(1)].

(b) where an asset representing expenditure of a capital nature on scientific research is sold without having been used for other purposes and the proceeds of the sale together with the amount of deduction allowed under section 35(2) & 35(2B) exceed the amount of capital expenditure, such excess or the amount of deductions allowed, whichever is less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place [Section 41(3)];

(c) where a deduction has been allowed in respect of a bad debt or part of debt under section 36(1)(vii), and, if the amount subsequently recovered on such debt or part is greater than the difference between the debt or part of debt and the deduction so allowed, the excess realisation shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not [Section 41(4)].

EXAMPLE: A business debt of Rs. 30,000 was due to an assessee out of which Rs. 20,000 was written off by him as irrecoverable in the assessment year 2000-2001 and allowed as a deduction in that assessment. Thus, the balance amount of Rs. 10,000 was considered to be recoverable. As against Rs. 10,000 the assessee has actually recovered Rs. 15,000 in the previous year relevant to the assessment year 2004-05. Whether the business in respect of which deduction had been allowed is in existence in that year or not, the difference of Rs. 5,000 [Rs. 15,000 *less* Rs. 10,000] will be deemed to be the business income of the assessee for the assessment year 2004-05;

(d) any sum received after the discontinuance of a business shall be treated as income of the recipient in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance [Section 176(3A)];

(e) where any profession is discontinued in any year on account of the cessation of the profession by reason of the retirement or death of the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance [Section 176(4)].

(v) Deductions from business or professional income:

Business expenditure is allowable only when any business or profession was carried on by the assessee at any time during the previous year. No deduction is admissible where the business or profession has been discontinued and has not been carried on at any time during the previous year.

Some of the important deductions admissible in computing the income from business or profession are discussed below:—

(1) Rent, rates, taxes, repairs and insurance for business or professional premises: [Section 30 read with section 38]

(a) where the premises are occupied by the assessee as a tenant, the rent paid for the premises and if he has undertaken to bear the cost of repairs[2] to the premises, the amount paid on account of such repairs;

(b) where the premises are owned by the assessee, the amount paid by him on current repairs[2] to the premises;

(c) any sums paid on account of land revenue, local rates or municipal taxes;

(d) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

Where the hired premises are occupied by the assessee partly for business or professional purposes and partly as dwelling house, the deduction in respect of rent paid, cost of repairs[2] and any sum paid on account of land revenue, local rates or municipal taxes will be allowed only in proportion to the part used for the purposes of business or profession.

If the premises, used partly for business or professional purposes and partly for residential purposes, are owned by the assessee, proportionate expenditure, in relation to the part used for business or professional purposes will be allowed on account of cost of current repairs[2], premium in respect of insurance against risk or damage or destruction of premises, land revenue, local rates or municipal taxes.

1. For the notes on provisions relating to 'Demerger of companies', refer item 31(I) on page 128.

2. It may be noted that, expenditure in the nature of capital expenditure incurred in relation to "cost of repairs" and "current repairs" referred to above will not be allowed as deduction from business or professional income for and from assessment year 2004-05 and onwards [vide *Explanation* to section 30]. However, depreciation on such capital expenditure may be allowable at the appropriate rates prescribed.

(2) Repairs and insurance of machinery, plant and furniture: [Section 31]

Current repairs to, and premium paid in respect of insurance of, machinery, plant or furniture used for the purposes of business or profession is an admissible deduction. It may be noted that, expenditure in the nature of capital expenditure in relation to "current repairs" will not be allowed as deduction for and from assessment year 2004-05 and onwards [vide *Explanation* to section 31]. However, depreciation on such capital expenditure may be allowable at the appropriate rates prescribed.

(3) Depreciation: [Section 32]

Depreciation allowance in respect of buildings, machinery, plant or furniture is to be allowed as a deduction if claimed by the assessee. From assessment year 2002-03 and onwards, depreciation will be allowed, if due, whether it is claimed or not by the assessee [*Explanation* 5 to section 32(1)] .

(i) *Conditions for allowing depreciation allowance [Section 32(1)] :*

(a) the assets should be owned, wholly or partly, by the assessee. This means that two or more assessees owning depreciable assets and using them in their business or profession will be eligible to claim depreciation on the fractional value of such assets owned by each of them; and

(b) the assets should actually be used for the purpose of the assessee's business or profession.

Depreciation is allowable on tangible assets (i.e., buildings, machinery, plant or furniture) and also on intangible assets acquired on or after 1-4-1998 (i.e., know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature).

(ii) *"Plant"* has been defined to include ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of business or profession but does not include:(1) tea bushes or livestock, or (2) from assessment year 2004-05 and onwards, buildings or furniture and fittings [Section 43(3)].

(iii) *Disallowance of depreciation on land:*—Depreciation is not allowable on the cost of the land on which the building is erected but only on the superstructure. As for buildings, it may be noted that legal ownership through registered conveyance deed is not required. It is enough if the building is occupied and used for business [Vide Mysore Minerals Ltd. *Vs.* CIT (S.C.) (1999) 239 ITR 775].

(iv) *Depreciation in respect of machinery acquired on hire purchase agreement:*—Under section 32(1), depreciation on machinery and plant is to be allowed only to the owner thereof who actually uses it for the purpose of his business or profession. In the case of machinery or plant acquired under hire purchase agreement, the lessee is allowed depreciation under Circular No. 9, dated 23-3-1943.

(v) *Depreciation of full cost in respect of items of machinery and plant of certain value:*—Depreciation @ 100% will not be allowed on machinery or plant whose cost does not exceed Rs. 5,000. Instead, depreciation at normal rates will be allowed as part of the block of assets in accordance with Rule 5 of the Income-tax Rules, 1962. However, in respect of cost of books purchased by an assessee carrying on: (1) profession [subject to condition that books are annual publications[3], in relation to assessment year 2003-04 and subsequent years]; and (2) business of lending library, depreciation @ 100% will be allowed without any monetary ceiling on its cost [Vide item (9) on page 113 in relation to assessment year 2003-04 and subsequent years/item (4) on page 139 of ITRR 2003-04 (65th Year of Publication) in relation to assessment year 2002-03 and earlier years].

(vi) *Basis for calculation of depreciation allowance:*— This is to be calculated as under:—

Under section 32(1)(ii), depreciation will be allowed on the written down value of the block of assets. *"Block of assets"* means a group of assets falling within a class of assets, comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed [Section 2(11)].

(vii) ***Depreciation for power sector:—***Under section 32(1)(i), in the case of assets acquired on or after 1-4-1997 by an undertaking engaged in generation, or generation and distribution, of power, depreciation will be allowed on the actual cost thereof to the assessee (i.e., on straight line method instead of on written down value method) at the rates prescribed in Rule 5(1A) read with Appendix I-A. The aggregate depreciation allowed in respect of any asset for different assessment years shall not exceed the actual cost of the said asset. Such an undertaking has an option that, instead of the depreciation specified in Appendix 1-A, it may be allowed depreciation under Rule 5(1) read with Appendix I. Such an option is to be exercised before the due date for furnishing the return of income u/s. 139(1). Once the option is exercised, it will be final and it will apply to all subsequent assessment years.

Section 32(1)(iii) provides for the manner of computation of depreciation when an asset on which depreciation is claimed and allowed u/s. 32(1)(i) [i.e., power sector] is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use). The

3. From assessment year 2003-04 and onwards, in the case of an assessee carrying on profession, depreciation @ 60%, as against 100%, will be allowed in respect of books which are not annual publications.

depreciation amount will be the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, falls short of the written down value thereof. This depreciation is allowable subject to the condition that the deficiency is actually written off in books of the assessee. If the moneys payable in respect of such assets, together with amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and written down value shall be chargeable to income-tax as income of the business of the previous year in which moneys payable in respect of such assets became due [Section 41(2)]. For the purpose of capital gain on sale of such assets, where the asset is sold at price exceeding the actual cost, provisions of sections 48 (mode of computation) & 49 (cost with reference to certain modes of acquisition) will apply subject to the modification that the written down value as defined in section 43(6), of the assets, as adjusted, shall be taken as the cost of acquisition of the asset [Section 50A].

(viii) *Actual cost:*—This is defined under section 43(1)[4] and means actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

Interest paid or payable on borrowed funds in connection with the acquisition of a depreciable asset and capitalised as pre-commencement expenses, before the asset is first put to use can be added to the cost of the asset for claiming depreciation, investment allowance, etc. However, such interest relatable to the period after the asset acquired is first put to use cannot be added to the actual cost of the asset [*Explanation* 8 to section 43(1)]. The interest paid in such a case is allowable as revenue expenditure year by year.

The amount of duty of excise or the additional duty leviable u/s. 3 of the Customs Tariff Act, 1975, on asset acquired on or after 1-3-1994 will be reduced from the actual cost of the asset in respect of which credit is claimed and allowed on such asset under the Central Excise Rules, 1944 for the purposes of allowing depreciation in relation to assessment year 1994-95 and subsequent years [*Explanation* 9 to section 43(1)].

Subsidy, grant or reimbursement granted by the Central or State Governments or any authority established under any law or by any other person towards a portion of cost of asset acquired by the assessee will be reduced from the actual cost of asset for the purpose of allowing depreciation. If the subsidy or grant or reimbursement is of such a nature that it is not directly relatable to any particular asset, the amount so received shall be apportioned in a manner that such asset bears to all the assets in respect of or with reference to which the subsidy, grant, etc. is so received and such subsidy, grant, etc. shall not be included in the actual cost of the asset [*Explanation* 10 to section 43(1)].

Where an asset was acquired outside India by a non-resident assessee and such asset is brought into India and used for the purposes of his business or profession in India, the actual cost of the asset will be the actual cost as reduced by depreciation that would have been allowed had the asset been used in India since the date of its acquisition [*Explanation* 11 to section 43(1)].

From assessment year 2002-03 and onwards, where any capital asset is acquired by an assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India, the actual cost of the asset will be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation [*Explanation* 12 to section 43(1)].

(ix) *Cost deemed to be the actual cost:*—

(a) Where an asset is acquired by way of gift or inheritance, the actual cost to the assessee shall be the actual cost to the previous owner as reduced by depreciation actually allowed [*Explanation* 2 to section 43(1)].

(b) Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purpose of his business or profession and the Assessing Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be deemed to be such amount as the Assessing Officer may, with the previous approval of the Joint Commissioner determine having regard to all the circumstances of the case [*Explanation* 3 to section 43(1)].

(c) Where an assessee (hereinafter referred to as the first mentioned person) buys assets from a person (hereinafter referred to as the second mentioned person) and leases them back to the second mentioned person (buy and lease back arrangement), the 'actual cost' for the purposes of depreciation in the case of the first mentioned person will be the same as the written down value of the assets at the time of transfer, in the case of the second mentioned person from whom he bought the asset [*Explanation* 4A to section 43(1)]. This *Explanation* has been given over-riding effect over the existing *Explanation* 3 to section 43(1), which empowers Assessing Officer to determine the actual cost, with the prior approval of Joint Commissioner, where any transfer of asset is found to be aimed at claiming enhanced depreciation and consequent reduction of tax liability.

(x) *Written down value:*—This is defined under section 43(6)[5] and means:

4. For the notes on provisions relating to "Demerger of companies", refer item (31) (J) on page 129.
5. For the notes on provisions relating to "Demerger of companies", refer item (31) (K) on page 129.

For assessment year 1988-89:

In the case of block of assets, the written down value shall be arrived at as under:

(a) The aggregate of the written down value of all the assets falling within that block of assets at the beginning of the previous year shall first be calculated;

(b) the aggregate of the written down value arrived at as in (a), shall be increased by the actual cost of any asset falling in that block which was acquired during the previous year; and

(c) the sum so arrived at in (b) shall be reduced by the moneys receivable together with scrap value, if any, in respect of any asset falling within that block which is sold or discarded or demolished or destroyed during the previous year, so, however, that the amount of such reduction does not exceed the written down value as so increased.

Assessment year 1989-90 & onwards:

The written down value of any block of assets in the immediately preceding previous year shall be reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by increase or the reduction as mentioned in (b) & (c) above.

However, in the case of slump sale, the written down value of block of assets shall be decreased by the amount of actual cost of the asset as reduced by the depreciation actually allowed. The amount of decrease should not exceed the written down value [Section 43(6)(c)(i)(C)]. The term 'slump sale' means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales [Section 2(42C)].

From assessment year 2002-03 and onwards, where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India, the written down value (WDV) of the block of assets in the case of such a company will be the WDV of the transferred assets immediately before such transfer [*Explanation 5* to section 43(6)].

EXAMPLE: Mr. Shah is maintaining books of accounts from April to March. He has the following block of assets:

	First Block (Plant 'A')	*Second Block (Building 'Y')*
	Rs.	*Rs.*
W.D.V. at beginning of **assessment year 1999-2000**	35,163	10,46,036
Less: Depreciation @ 25% (First Block)/10% (Second Block)	8,791	1,04,604
W.D.V. at beginning of **assessment year 2000-2001**	26,372	9,41,432
Less: Depreciation @ 25% (First Block)/10% (Second Block)	6,593	94,143
W.D.V. at beginning of **assessment year 2001-02**	19,779	8,47,289
Less: Depreciation @ 25% (First Block)/10% (Second Block)	4,945	84,729
W.D.V. at beginning of **assessment year 2002-03**	14,834	7,62,560
Less: Depreciation @ 25% (First Block)/10% (Second Block)	3,709	76,256
W.D.V. at beginning of **assessment year 2003-04**	11,125	6,86,304
Less: Depreciation @ 25% (First Block)/10% (Second Block)	2,781	68,630
W.D.V. at beginning of **assessment year 2004-05**	8,344	6,17,674

Assessment year 2004-05:

During the financial year ending on 31-3-2004, Mr. Shah —

(1) acquires new plant "B" on 2-9-2003 for Rs. 5,00,000
(2) sells old plant "A" on 3-9-2003 for Rs. 4,75,000
(3) acquires new building "Z" on 2-9-2003 for Rs. 10,00,000
(4) sells old building "Y" on 3-9-2003 for Rs. 15,00,000

W.D.V. at beginning of **assessment year 2004-05**	8,344	6,17,674
Add: Cost of plant "B"/building "Z" acquired during the previous year	5,00,000	10,00,000
	5,08,344	16,17,674
Less: Sale proceeds of plant "A"/ building "Y" during the previous year	4,75,000	15,00,000
W.D.V. before depreciation	33,344	1,17,674
Less: Depreciation @ 25% (First Block)/10% (Second Block)	8,336	11,767
W.D.V. at beginning of **assessment year 2005-06**	25,008	1,05,907

In the *Example* on page 108, if plant 'A' of First Block and building 'Y' of Second Block had been sold for Rs. 10,00,000 & Rs. 35,00,000, respectively, then, not only the depreciation is not allowable for assessment year 2004-05 but the excess of Rs. 4,91,656 in respect of First Block and excess of Rs. 18,82,326 in respect of Second Block will be treated as *"Short-term capital gains"* under section 50 as explained in illustrations on page 150.

(xi) *Depreciation on motor car manufactured outside India:*—Where such car is acquired after 28-2-1975 but before 1-4-2001, no depreciation is admissible. However, depreciation will be allowed on such car if it is used[6] for hiring to tourists, or used outside India by an assessee in his business or profession in another country. It may be noted that, in relation to assessment year 2002-03 and subsequent years, depreciation will be allowed, without restrictions, on motor car manufactured outside India if such car is acquired on or after 1-4-2001 [Clause (a) of the 1st proviso to section 32(1)].

(xii) *Depreciation on machinery or plant of mineral oil prospecting concerns:*—Depreciation is not allowable in respect of machinery or plant, if the actual cost thereof is allowed as deduction under an agreement entered into by the Central Government u/s. 42 [Clause (b) of the 1st proviso to section 32(1)].

(xiii) *Prescribed rates at which depreciation is to be allowed:*—Different rates of depreciation for different block of assets are prescribed in Appendix I, read with Rule 5(1) of the Income-tax Rules, 1962 [for assessment years 2000-01 to 2002-03, refer pp. 137-139 of ITRR 2003-04 (65th Year of Publication) and for assessment year 2003-04 & onwards, refer pp. 110-113 of this ITRR]. However, in the case of an undertaking engaged in generation, or generation and distribution, of power, in respect of assets acquired on or after 1-4-1997, different rates of depreciation have been prescribed in Appendix I-A, read with sub-rule (1A) to Rule 5 of the Income-tax Rules, 1962. These rates are applicable in relation to assessment year 1998-99 and onwards. The text of Rule 5 and Appendix I/I-A are reproduced hereunder:

Rule 5. Depreciation. (1) Subject to the provisions of sub-rule (2), the allowance under clause (ii) of sub-section (1) of section 32 in respect of depreciation of any block of assets shall be calculated at the percentages specified in the second column of the Table in Appendix I to these rules on the written down value of such block of assets as are used for the purposes of the business or profession of the assessee at any time during the previous year.

(1A) The allowance under clause *(i)* of sub-section (1) of section 32 of the Act in respect of depreciation of assets acquired on or after the 1st day of April, 1997, shall be calculated at the percentage specified in the second column of the Table in Appendix I-A of these rules on the actual cost thereof to the assessee as are used for the purposes of the business of the assessee at any time during the previous year:

Provided that the aggregate depreciation allowed in respect of any asset for different assessment years shall not exceed the actual cost of the said asset:

Provided further that the undertaking specified in clause *(i)* of sub-section (1) of section 32 of the Act may, instead of the depreciation specified in Appendix I-A, at its option be allowed depreciation under sub-rule (1) read with Appendix 1, if such option is exercised before the due date for furnishing the return of income under sub-section (1) of section 139 of the Act,

(a) for the assessment year 1998-99, in the case of an undertaking which began to generate power prior to 1st day of April, 1997, and

(b) for the assessment year relevant to the previous year in which it begins to generate power, in case of any other undertaking:

Provided also that any such option once exercised shall be final and shall apply to all the subsequent assessment years.

(2) Where any new machinery or plant is installed during the previous year relevant to the assessment year commencing on or after the 1st day of April, 1988, for the purposes of business of manufacture or production of any article or thing and such article or thing—

(a) is manufactured or produced by using any technology (including any process) or other know-how developed in, or

(b) is an article or thing invented in,

a laboratory owned or financed by the Government or a laboratory owned by a public sector company or a University or an institution recognised in this behalf by the Secretary, Department of Scientific and Industrial Research, Government of India,

such plant or machinery shall be treated as a part of block of assets qualifying for depreciation at the rate of 40 per cent. *[50%, upto assessment year 1991-92]* of written down value, if the following conditions are fulfilled, namely:—

(i) the right to use such technology (including any process) or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner;

(ii) the return furnished by the assessee for his income, or the income of any other person in respect of which he is assessable, for any previous year in which the said machinery or plant is acquired, shall be accompanied by a certificate from the Secretary, Department of Scientific and Industrial Research, Government of India, to the effect that such article or thing is manufactured or produced by using such technology (including any process) or other know-how developed in such laboratory or is an article or thing invented in such laboratory; and

(iii) the machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the list in the Eleventh Schedule to the Act.

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6. Where tour operators/travel agents use certain foreign motor cars, owned by them, for providing transportation services to tourists, depreciation will be allowed on these cars [Vide Circular No. 609, dt. 29-7-1991: 191 ITR (St.) 1].

Rates of Depreciation for the assessment year 2003-04[7] & onwards:

APPENDIX I

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

Blocks of assets	Depreciation allowance as % of written down value
1	2
PART A. TANGIBLE ASSETS	
I. BUILDING: [see Notes 1 to 4 below the Table on page 113]	
(1) Buildings which are used mainly for residential purposes except hotels and boarding houses	5
(2) Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below	10
(3) Buildings acquired on or after the 1st day of September, 2002 for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities under clause (i) of sub-section (4) of section 80-IA	100
(4) Purely temporary erections such as wooden structures.	100
II. FURNITURE AND FITTINGS:	
Furniture and fittings including electrical fittings [see Note 5 below the Table on page 113]	15
III. MACHINERY AND PLANT:	
(1) Machinery and plant other than those covered by sub-items (2), (3) and (8) below	25
(2) Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after 1st day of April, 1990	20
(3) (i) Aeroplanes—Aero engines	40
(ii) Motor buses, motor lorries[8] and motor taxis used in a business of running them on hire	
(iii) Commercial vehicle which is acquired by the assessee on or after the 1st day of October, 1998, but before the 1st day of April, 1999 and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [see Note 6 below the Table on page 113].	40
(iv) New commercial vehicle which is acquired on or after the 1st day of October, 1998 but before the 1st day of April, 1999 in replacement of condemned vehicle of over 15 years of age and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [see Note 6 below the Table on page 113]	60
(v) New commercial vehicle which is acquired on or after the 1st day of April, 1999 but before the 1st day of April, 2000 in replacement of condemned vehicle of over 15 years of age and is put to use before the 1st day of April, 2000 for the purposes of business or profession in accordance with the second proviso to clause (ii) of sub-section (1) of section 32 [see Note 6 below the Table on page 113]	60
(vi) New commercial vehicle which is acquired on or after the 1st day of April, 2001 but before the 1st day of April, 2002 and is put to use before 1st day of April, 2002 for the purposes of business or profession [see Note 6 below the Table on page 113]	50
(vii) Moulds used in rubber and plastic goods factories	40
(viii) Air pollution control equipments, being—	100
(a) Electrostatic precipitation systems	
(b) Felt-filter systems	
(c) Dust collector systems	
(d) Scrubber-counter current/venturi/packed-bed/cyclonic scrubbers	
(e) Ash handling system and evacuation system	
(ix) Water pollution control equipments, being—	
(a) Mechanical screen systems	
(b) Aerated detritus chambers (including air compressor)	
(c) Mechanically skimmed oil and grease removal systems	

7. For rates of depreciation applicable in relation to : (a) assessment years 2000-01 to 2002-03, refer pp. 137-139 of ITRR 2003-04 (65th year of Publication); and (b) assessment years 1988-89 to 1999-2000, refer pp. 113-115 of ITRR 2002-03 (64th Year of Publication).

8. The C.B.D.T. has clarified that ''motor vans'' are akin to ''motor lorries'' or ''motor buses'' and, therefore, higher rate of depreciation will be allowed on motor vans also, if they are used for providing transport services to tourist [Vide Circular No. 609, dt. 29-7-1991: 191 ITR (St.) 1]. Higher depreciation will also be admissible on motor lorries used in the assessee's business of transportation of goods on hire. The higher rate of depreciation, however, will not apply if motor lorries, motor buses, etc. are used in some other non-hiring business of the assessee [Vide Circular No. 652, dt. 14-6-1993: 202 ITR (St.) 55].

	(d) Chemical feed systems and flash mixing equipment	100
	(e) Mechanical flocculators and mechanical reactors	
	(f) Diffused air/mechanically aerated activated sludge systems	
	(g) Aerated lagoon systems	
	(h) Biofilters	
	(i) Methane-recovery anaerobic digester systems	
	(j) Air floatation systems	
	(k) Air/steam stripping systems	
	(l) Urea hydrolysis systems	
	(m) Marine outfall systems	
	(n) Centrifuge for dewatering sludge	
	(o) Rotating biological contactor or bio-disc	
	(p) Ion exchange resin Column	
	(q) Activated Carbon Column	
(x)	(a) Solid waste control equipments, being — Caustic/lime/chrome/mineral/cryolite recovery system	
	(b) Solid waste recycling and resource recovery systems	
(xi)	Machinery and plant, used in semi-conductor industry covering all integrated circuits (ICs) (excluding hybrid integrated circuits) ranging from small scale integration (SSI) to large scale integration/very large scale integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thyristors, triacs, etc., other than those covered by entries (viii), (ix) and (x) of this sub-item and sub-item (8) below	40
[9](xia)	Life saving medical equipment, being —	40
	(a) D. C. Defibrillators for internal use and pace makers	
	(b) Haemodialysors.	
	(c) Heart lung machine.	
	(d) Cobalt therapy unit.	
	(e) Colour doppler.	
	(f) SPECT Gamma camera.	
	(g) Vascular Angiography System including digital substraction angiography.	
	(h) Ventilator used with anaesthesia apparatus.	
	(i) Magnetic Resonance Imaging System.	
	(j) Surgical Laser.	
	(k) Ventilators other than those used with anaesthesia.	
	(l) Gamma Knife.	
	(m) Bone Marrow Transplant Equipment including silastic long standing intravenous catheters for chemotherophy.	
	(n) Fibre optic endoscopes including paediatric resectoscope/audit resectoscope, Peritoneoscopes, Arthoscope, Microlaryngoscope, Fibreoptic Flexible Nasal Pharyngo Bronchscope, Fibreoptic Flexible Laryngo Brochoscope, Video Laryngo Brochoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope.	
	(o) Laparoscope (single incision).	
(4)	Containers made of glass or plastic used as re-fills	50
(5)	Computers including computer software [see note 7 below the Table on page 113]	60
(6)	Machinery and plant, used in weaving, processing and garment sector of textile industry, which is purchased under the TUFS on or after the 1st day of April, 2001 but before the 1st day of April, 2004 and is put to use before the 1st day of April, 2004 [see Note 8 below the Table on page 113]	50
(7)	Machinery and plant, acquired and installed on or after the 1st day of September, 2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility under clause (i) of sub-section (4) of section 80-IA [see Notes 4 and 9 below the Table on page 113]	100
(8)	(i) Wooden parts used in artificial silk manufacturing machinery	
	(ii) Cinematograph films, bulbs of studio lights	
	(iii) Match factories — Wooden match frames	
	(iv) Mines and quarries:	
	(a) Tubs, winding ropes, haulage ropes and sand stowing pipes	
	(b) Safety lamps	
	(v) Salt works — Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material	
	(vi) Flour mills — Rollers	80
	(vii) Iron and steel industry — Rolling mill rolls	
	(viii) Sugar works — Rollers	

9. Inserted w.e.f 1-4-2004 (assessment year 2004-05 and onwards), vide Income-tax (Fifth Amendment) Rules, 2003 [261 ITR (St.) 41 read with errata on page xxii of the said ITR].

(ix) Energy saving devices, being:—
- A. Specialised boilers and furnaces:
  - (a) Ignifluid/fluidized bed boilers
  - (b) Flameless furnaces and continuous pusher type furnaces
  - (c) Fluidized bed type heat treatment furnaces
  - (d) High efficiency boilers (thermal efficiency higher than 75 per cent. in case of coal fired and 80 per cent. in case of oil/gas fired boilers)
- B. Instrumentation and monitoring system for monitoring energy flows:
  - (a) Automatic electrical load monitoring systems
  - (b) Digital heat loss meters
  - (c) Micro-processor based control systems
  - (d) Infra-red thermography
  - (e) Meters for measuring heat losses, furnace oil flow, steam flow, electric energy and power factor meters
  - (f) Maximum demand indicator and clamp on power meters
  - (g) Exhaust gases analyser
  - (h) Fuel oil pump test bench
- C. Waste heat recovery equipment:
  - (a) Economisers and feed water heaters
  - (b) Recuperators and air pre-heaters
  - (c) Heat pumps
  - (d) Thermal energy wheel for high and low temperature waste heat recovery
- D. Co-generation systems:
  - (a) Back pressure pass out, controlled extraction, extraction-cum-condensing turbines for co-generation along with pressure boilers
  - (b) Vapour absorption refrigeration systems
  - (c) Organic rankine cycles power systems
  - (d) Low inlet pressure small steam turbines
- E. Electrical equipment:
  - (a) Shunt capacitors and synchronous condenser systems
  - (b) Automatic power cut-off devices (relays) mounted on individual motors
  - (c) Automatic voltage controller
  - (d) Power factor controller for AC motors
  - (e) Solid state devices for controlling motor speeds
  - (f) Thermally energy-efficient stenters (which require 800 or less kilocalories of heat to evaporate one kilogram of water)
  - (g) Series compensation equipment
  - (h) Flexible AC Transmission (FACT) devices — Thyristor controlled series compensation equipment
  - (i) Time of Day (TOD) energy meters
  - (j) Equipment to establish transmission highways for National Power Grid to facilitate transfer of surplus power of one region to the deficient region
  - (k) Remote terminal units/intelligent electronic devices, computer hardware/ software, router/bridges, other required equipment and associated communication systems for supervisory control and data acquisition systems, energy management systems and distribution management systems for power transmission system
  - (l) Special energy meters for Availability Based Tariff (ABT)
- F. Burners:
  - (a) 0 to 10 per cent. excess air burners
  - (b) Emulsion burners
  - (c) Burners using air with high pre-heat temperature (above 300° C)
- G. Other equipments:
  - (a) Wet air oxidation equipment for recovery of chemicals and heat
  - (b) Mechanical vapour recompressors
  - (c) Thin film evaporators
  - (d) Automatic micro-processor based load demand controllers
  - (e) Coal based producer gas plants
  - (f) Fluid drives and fluid couplings
  - (g) Turbo charges/super-charges
  - (h) Sealed radiation sources for radiation processing plants

(x) Gas cylinders including valves and regulators
(xi) Glass manufacturing concerns — Direct fire glass melting furnaces
(xii) Mineral oil concerns:
- (a) Plant used in field operations (above ground) distribution-returnable packages
- (b) Plant used in field operations (below ground), but not including kerbside pumps including underground tanks and fittings used in field operations (distribution) by mineral oil concerns

80

	(xiii)	Renewed energy devices being—	
		(a) Flat plate solar collectors	80
		(b) Concentrating and pipe type solar collectors	
		(c) Solar cookers	
		(d) Solar water heaters and systems	
		(e) Air/gas/fluid heating systems	
		(f) Solar crop driers and systems	
		(g) Solar refrigeration, cold storages and airconditioning systems	
		(h) Solar steels and desalination systems	
		(i) Solar power generating systems	
		(j) Solar pumps based on solar-thermal and solar-photovoltaic conversion	
		(k) Solar-photovoltaic modules and panels for water pumping and other applications	
		(l) Wind mills and any specially designed devices which run on wind mills	
		(m) Any special devices including electric generators and pumps running on wind energy	
		(n) Biogas-plant and biogas-engines	
		(o) Electrically operated vehicles including battery powered or fuel-cell powered vehicles	
		(p) Agricultural and municipal waste conversion devices producing energy	
		(q) Equipment for utilising ocean waste and thermal energy	
		(r) Machinery and plant used in the manufacture of any of the above sub-items	
(9)	(i)	Books owned by assessees carrying on a profession—	
		(a) Books being annual publications	100
		(b) Books, other than those covered by entry (a) above	60
	(ii)	Books owned by assessees carrying on business in running lending libraries	100
IV.	**SHIPS:**		
(1)		Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	25
(2)		Vessels ordinarily operating on inland waters, not covered by sub-item 3 below	
(3)		Vessels ordinarily operating on inland waters being speed boats (see Note 10 below the Table hereafter)	

PART B.

INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25

NOTES:

1. "Buildings" include roads, bridges, culverts, wells and tubewells.

2. A building shall be deemed to be a building used mainly for residential purposes, if the built-up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent. of its total built up floor area and shall include any such building in the factory premises.

3. In respect of any structure or work by way of renovation or improvement in or in relation to a building referred to in *Explanation 1* of clause (ii) of sub-section (1) of section 32, the percentage to be applied will be the percentage specified against sub-item (1) or (2) of item I as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected. Where the structure is constructed or the work is done by way of extension of any such building, the percentage to be applied would be such percentage as would be appropriate, as if the structure or work constituted a separate building.

4. Water treatment system includes system for desalinisation, demineralisation and purification of water.

5. "Electrical fittings" include electrical wiring, switches, sockets, other fittings and fans, etc.

6. "Commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller". The expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road-roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

7. "Computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device.

8. "TUFS" means Technology Upgradation Fund Scheme announced by the Government of India in the form of a resolution of the Ministry of Textiles vide No. 28/1/99-CTI of 31-3-1999.

9. Machinery and plant includes pipes needed for delivery from the source of supply of raw water to the plant and from the plant to the storage facility.

10. "Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed, it will plane, i.e., its bow will rise from the water.

Rates of Depreciation, in the case of an undertaking engaged in generation, or generation and distribution, of power, for the assessment year 1998-99 & onwards:

APPENDIX I-A

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

[See rule 5(1A)]

	Class of assets	Depreciation allowance as percentage of actual cost
	1	2
(a)	Plant and machinery in generating stations including plant foundations:–	
	(i) Hydro-electric	3.4
	(ii) Steam electric NHRS and waste heat recovery boilers/plants	7.84
	(iii) Diesel electric and gas plant	8.24
(b)	Cooling towers and circulating water systems	7.84
(c)	Hydraulic works forming part of hydro-electric system including:–	
	(i) Dams, spillways, weirs, canals, reinforced concrete flumes and syphons	1.95
	(ii) Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks), hydraulic control valves and other hydraulic works	3.4
(d)	Building and civil engineering works of permanent character, not mentioned above:	
	(i) Office and showrooms	3.02
	(ii) Containing thermo-electric generating plant	7.84
	(iii) Containing hydro electric generating plant	3.4
	(iv) Temporary erection such as wooden structures	33.4
	(v) Roads other than kutcha roads	3.02
	(vi) Others	3.02
(e)	Transformers, transformer (kiosk) sub-station equipment and other fixed apparatus (including plant foundation):	
	(i) Transformers (including foundations) having a rating of 100 kilo volt amperes and over	7.81
	(ii) Others	7.84
(f)	Switchgear including cable connections	7.84
(g)	Lightning arrestor:	
	(i) Station type	7.84
	(ii) Pole type	12.77
	(iii) Synchronous condensor	5.27
(h)	Batteries:	33.4
	(i) Underground cable including joint boxes and disconnectioned boxes	5.27
	(ii) Cable duct system	3.02
(i)	Overhead lines including supports:	
	(i) Lines on fabricated steel operating at nominal voltages higher than 66 kilo volts	5.27
	(ii) Lines on steel supports operating at nominal voltages higher than 13.2 kilo volts but not exceeding 66 kilo volts	7.84
	(iii) Lines on steel or reinforced concrete supports	7.84
	(iv) Lines on treated wood supports	7.84
(j)	Meters	12.77
(k)	Self-propelled vehicles	33.40
(l)	Air conditioning plants:	
	(i) Static	12.77
	(ii) Portable	33.40
(m)	(i) Office furniture and fittings	12.77
	(ii) Office equipments	12.77
	(iii) Internal wiring including fittings and apparatus	12.77
	(iv) Street light fittings	12.77
(n)	Apparatus let on hire:	
	(i) Other than motors	33.4
	(ii) Motors	12.77
(o)	Communication equipment:	
	(i) Radio and high frequency carrier system	12.77
	(ii) Telephone lines and telephones	12.77
(p)	Any other assets not covered above	7.69

(xiv) *Normal depreciation.*—Under Rule 5 of the Income-tax Rules, 1962, depreciation allowance is to be calculated at the specified rates on all categories of depreciable assets which are in use in business or profession at any time during the previous year.

If, an asset referred to in section 32(1)(i)/32(1)(ii)/32(1)(iia) is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than 180 days in that previous year, depreciation on such asset will be allowed at 50% of the depreciation normally allowable [2nd proviso to section 32(1)].

However, for assessment year 1999-2000, depreciation on commercial vehicle acquired by the assessee on or after 1-10-1998 but before 1-4-1999 and put to use before 1-4-1999 for the purposes of business will be allowed full depreciation prescribed in Appendix I irrespective of the period of user of the asset during the relevant year [3rd proviso to section 32(1)].

Further, where the assets are subject to succession to business or profession [referred to in sections 47(xiii) or 47(xiv) or 170] or amalgamation of companies in a previous year, the total depreciation allowable on such assets being tangible assets/intangible assets in that previous year will be restricted to the depreciation at the prescribed rates, as if the succession or amalgamation had not taken place. The allowable depreciation will be apportioned between the successor and predecessor or the amalgamated company and the amalgamating company, as the case may be, on the basis of number of days for which the assets were used by each of them [5th[10] proviso to section 32(1)].

(xv) *Additional depreciation on new machinery or plant:* Clause (iia) of section 32(1) provides for additional depreciation in relation to assessment year 2003-04 and subsequent years. The said clause (iia) provides that in the case of any new machinery or plant (other than ships and aircraft) acquired and installed after 31-3-2002, by an assessee engaged in the business of manufacture or production of any article or thing, additional depreciation @ 15%[11] of the actual cost of such machinery or plant will be allowed as deduction u/s. 32(1)(ii) in the case of—

(1) a new industrial undertaking[12] during any previous year in which such undertaking begins to manufacture or produce any article or thing on or after 31-3-2002; or

(2) any industrial undertaking existing before 1-4-2002, during any previous year in which it achieves the substantial expansion by way of increase in installed capacity[13] by not less than 25% [1st Proviso to section 32(1)(iia)[13a]].

Additional depreciation allowed will be deducted from W.D.V. of the asset. Additional depreciation will not be allowed in respect of—

(a) any machinery or plant which before its installation by the assessee, was used either within or outside India by any other person; or

(b) any machinery or plant installed in any office premises or any residential accommodation, including accomodation in the nature of a guest house; or

(c) any office appliances or road transport vehicles; or

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (by way of depreciation or otherwise) in computing business or professional income of any one previous year.

To avail of this deduction, the assessee is required to furnish the details of machinery or plant and increase in the installed capacity of production in the Form to be prescribed, along with the return of income, and auditor's report in Form No. 3AA certifying that the deduction has been correctly claimed in accordance with section 32(1)(iia).

(xvi) *Depreciation on the construction of any structure or work on leased or rental premises.*—Any capital expenditure incurred by an assessee on the construction of any structure or work by way of renovation or extension of, or improvement of the building held under lease or other right of occupancy for the purpose of his business or profession will qualify for depreciation allowance at the rates prescribed under the Income-tax Rules [*Explanation* 1 to section 32(1)]. Under section 32(2), the unabsorbed depreciation allowance admissible under section 32(1) will be carried forward in the same manner and to the same extent as unabsorbed depreciation in respect of other assets.

(xvii) *Unabsorbed depreciation:*

From assessment year 2002-03 and onwards:

Substituted sub-section (2) of section 32 provides that where effect cannot be given either in full or in part to the depreciation allowance u/s. 32(1) in any previous year for want of profits and gains chargeable for that year, or owing to the profits and gains chargeable being insufficient to absorb the depreciation allowance, then, subject to the provisions of sections 72(2) & 73(3), the unabsorbed depreciation allowance will be added to the current depreciation and if there is no current depreciation, it will be treated as current depreciation and set off in the current and subsequent previous years without any time limit. It may be noted that the unabsorbed depreciation can be carried forward and set off against income under any heads of income. This is because the unabsorbed depreciation is given the same treatment as current depreciation.

10. For the notes on provisions relating to "Demerger of companies", refer item (31)(B) on page 128.

11. If an asset is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than 180 days in that year, depreciation on such asset will be allowed @ 50% of the additional depreciation allowable (i.e., @ $7^1/_2$%) [2nd proviso to section 32(1)(ii)].

12. "new industrial undertaking" is defined to mean an undertaking which is not formed:
(a) by the splitting up, or the reconstruction, of a business, already in existence; or
(b) by the transfer to a new business of machinery or plant previously used for any purpose [*Explanation* to section 32(1)(iia)].

13. "installed capacity" is defined to mean the capacity of production as existing on the 31st day of March, 2002 [*Explanation* to section 32(1)(iia)].

13a. For notes on amendment of 1st proviso to section 32(1)(iia) by the Finance (No. 2) Act, 2004, refer para 5.1 on page 44.

Upto assessment year 2001-02:

The then sub-section (2) of section 32 provides that where effect cannot be given either in full or in part to the depreciation allowance u/s. 32(1)(ii) in any assessment year for want of profits and gains chargeable for that year or owing to the profits and gains chargeable being insufficient to absorb the depreciation allowance, the unabsorbed depreciation for that year—

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

(b) if unabsorbed depreciation allowance cannot be wholly set off under (a) above, the amount not so set off shall be set off from the income under any other head, if any, assessable for that assessment year;

(c) if the unabsorbed depreciation allowance cannot be set off under *(a)* and *(b)* above, the amount of allowance not so set off shall be carried forward to the following assessment year and it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year. Upto assessment year 2000-01, this set off is subject to the condition that the business or profession to which the unabsorbed depreciation allowance related should be continued to be carried on by him in the previous year relevant to the assessment year in which such set off is claimed.

The unabsorbed depreciation allowance, which cannot be wholly so set off, can be carried forward and set off only for eight immediately succeeding assessment years. However, the time limit of eight assessment years will not apply to a company, during the period the company is treated as a 'sick industrial company' u/s. 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985.

It may be noted that, the cumulative unabsorbed depreciation brought forward as on 1-4-1997 (i.e., in relation to assessment year 1996-97 and earlier years), can still be set off against taxable business or professional income or income under any other head for the assessment year 1997-98 and seven subsequent assessment years [Vide Para 4 of the Speech of Finance Minister while moving the Finance (No. 2) Bill, 1996, for consideration in the Lok Sabha. Refer 222 ITR (St.) 36].

EXAMPLE:— For the assessment year 2003-04 an assessee had the following sources of income:

I.	Income from business:		
	(a) Confectionery business [excluding depreciation]	Rs. 5,000	
	(b) Cloth business	Rs. 2,000	Rs. 7,000
	Less: Depreciation of confectionery business for assessment year 2003-04		Rs. 15,000
	Depreciation to be set off against other sources of income		Rs. 8,000
II.	Income from House property		Rs. 4,000
III.	Income from other sources		Rs. 1,000
			Rs. 5,000
	Less: Unabsorbed depreciation [Refer I]		Rs. 8,000
	Unabsorbed depreciation to be carried forward under section 32(2)		Rs. 3,000

Total income for the assessment year 2003-04 will be nil. Balance of unabsorbed depreciation of Rs. 3,000 will be carried forward to the assessment year 2004-05.

ASSESSMENT YEAR 2004-05:

(a)	Income from confectionery business [excluding depreciation]		Rs. 14,000
(b)	Income from cloth business		Rs. 3,000
			Rs. 17,000
	Less: Depreciation due for the assessment year 2004-05 [Conf. Bus.]	Rs.12,000	
	Unabsorbed depreciation of the assessment year 2003-04:		
	Unabsorbed depreciation to be treated as current depreciation [vide sub-section (2) of section 32]	Rs. 3,000	Rs. 15,000
	Income from business		Rs. 2,000
	Income from property		Rs. 4,000
	Income from other sources		Rs. 49,000
	Gross total income		Rs. 55,000

In cases where the profits are insufficient to absorb: (1) carried forward losses; (2) current depreciation; and (3) unabsorbed depreciation of earlier years, the same should be deducted in the order given on page 194.

(4) Tea development account, coffee development account and rubber development account:

[Section 33AB]

The provisions of this section are applicable to an assessee carrying on business of growing and manufacturing tea (or coffee or rubber, in relation to assessment year 2004-05 & onwards) in India and the assessee has, before the expiry of 6 months from the end of the previous year or before furnishing the return of income, whichever is earlier,—

(a) deposited any amount with National Bank for Agriculture and Rural Development in an account (hereafter referred to as 'the special account') maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter referred to as 'the scheme')

approved in this behalf by the Tea Board (or the Coffee Board or the Rubber Board, in relation to assessment year 2004-05 & onwards); or

(b) deposited any amount in an account [hereafter referred to as 'the Deposit Account' ('the Tea Deposit Account', upto assessment year 2003-04)] opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter referred to as 'the deposit scheme'), with the previous approval of the Central Government.

On making the deposit within the stipulated time, the assessee will be entitled to a deduction (such deduction being allowed before set off of any unabsorbed losses of earlier years) equal to the amount of deposit which will, however, be restricted to 40% (20%, in relation to assessment year 2001-02 and earlier years) of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section). Where the deduction is allowed to a firm or any association of persons or any body of individuals, it will not again be allowed in the hands of any of its partner/member. Further, where any deduction in respect of any amount deposited in the special account or in the Deposit Account (Tea Deposit Account, upto assessment year 2003-04) has been allowed under section 33AB(1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

The deduction under this section shall not be admissible unless the accounts of the business of the assessee for the previous year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* to section 288(2) and the assessee furnishes, along with his return of income, the report of such audit in the prescribed Form No. 3AC duly signed and verified by such accountant.

From assessment year 2004-05 and onwards, where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank for Agriculture and Rural Development or withdrawn by the assessee from the Deposit Account and such amount is utilised for the purchase of –

(a) any machinery or plant to be installed in any office premises or residential accommodation, including accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise);

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and chargeable to income-tax as the income of that previous year.

Upto assessment year 2003-04, the deduction under this section will not be allowed in respect of any amount utilised for the purchase of-

(a) any machinery or plant to be installed in any office premises or residential accommodation, including accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise);

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

Any amount standing to the credit of the assessee in the special account or the Deposit Account (the Tea Deposit Account, upto assessment year 2003-04) shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme or in the circumstances specified below:

(a) closure of business;
(b) death of an assessee;
(c) partition of a Hindu undivided family;
(d) dissolution of a firm; and
(e) liquidation of a company.

Where any amount withdrawn from the special account or the Deposit Account (the Tea Deposit Account, upto assessment year 2003-04) is utilised by the assessee for the purposes of any business expenditure in accordance with the scheme or the deposit scheme, then such expenditure will not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession".

Where any amount standing to the credit of the assessee in the special account or in the Deposit Account (the Tea Deposit Account, upto assessment year 2003-04) is released/withdrawn during any previous year for being utilised by the assessee for purposes of business in accordance with the scheme or the deposit scheme and such amount is not so utilised, either wholly or partly, within that previous year, such amount as is not so utilised shall be deemed to be the profits and gains of business of that previous year and included as the income of that previous year. However, the above provisions will not apply where the amount is released at the closure of account due to

death of an assessee, partition of a HUF and liquidation of a company. But, where the amount is withdrawn consequent to the closure of business or dissolution of a firm, the amount so withdrawn shall be deemed to be the profits and gains of business or profession and charged to tax in the year of withdrawal and shall be assessed in the hands of the same business/firm as if the said business was not closed or the said firm was not dissolved.

Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year within 8 years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under this section shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and accordingly shall be liable to income-tax as income of that previous year. However, there will be no tax liability in respect of deductions earlier allowed if the sale or transfer of such asset is to the Government, a local authority, a statutory corporation or a Government company or if the sale or transfer is made in connection with succession of the firm by a company in the business or profession carried on by the firm subject to conditions prescribed in the *Explanation* to section 33AB(8) and the scheme or the deposit scheme continues to apply to the company as in the case of the firm.

(5) Site restoration fund:
[Section 33ABA]

Provisions of section 33ABA are applicable to an assessee carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business and the assessee has *before the end of the previous year,*—

(1) deposited with the State Bank of India any amount or amounts in an account (i.e., special account) maintained with that bank in accordance with, and for the purposes specified in a scheme [i.e., Site Restoration Fund Scheme, 1999: 237 ITR (St.) 3] approved by the Government of India in the Ministry of Petroleum and Natural Gas; or

(2) deposited any amount in an account (i.e., Site Restoration Account) opened in accordance with, and for the purposes specified in, a scheme (i.e., deposit scheme) framed by the Ministry of Petroleum and Natural Gas.

On making deposit within the stipulated time, the assessee will be entitled to a deduction (such deduction being allowed before the set-off of any unabsorbed losses of the previous years) of a sum equal to the amount or the aggregate of the amounts so deposited, which will, however, be restricted to 20% of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section). Any amount credited to the special account (SA) or Site Restoration Account (SRA) by way of interest also will be deemed to be a deposit eligible for deduction u/s. 33ABA(1). Where the deduction is allowed to a firm or any association of persons or any body of individuals, it will not again be allowed in the hands of any of its partner/member. Further, where any deduction in respect of any amount deposited in the SA or in the SRA has been allowed under section 33ABA(1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

The deduction under this section shall not be admissible unless the accounts of the business of the assessee for the previous year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* to section 288(2) and the assessee furnishes, along with his return of income, the report of such audit in the prescribed Form No. 3AD duly signed and verified by such accountant.

The deduction under this section will not be allowed in respect of any amount utilised for the purchase of:

(a) any machinery or plant to be installed in any office premises or residential accommodation, including accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise); and

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

Any amount standing to the credit of the assessee in the SA or the SRA shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

Where any amount withdrawn from the SA or the SRA is utilised by the assessee for the purposes of any business expenditure in accordance with the scheme or the deposit scheme, then such expenditure will not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession".

Where any amount standing to the credit of the assessee in the SA or the SRA is released/withdrawn during any previous year for being utilised by the assessee for purposes of business in accordance with the scheme or the deposit scheme and such amount is not so utilised, either wholly or partly, within that previous year, such amount as is not so utilised shall be deemed to be the profits and gains of business of that previous year and included as the income of that previous year.

Where any amount standing to the credit of the assessee in the SA or in the SRA is withdrawn on closure of the SA/SRA during any previous year, the amount so withdrawn, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and chargeable to income-tax as the income of that previous year.

Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year within 8 years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under this section shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and accordingly shall be liable to income-tax as income of that previous year. However, there will be no tax liability in respect of deductions earlier allowed if the sale or transfer of such asset is to the Government, a local authority, a statutory corporation or a Government company or if the sale or transfer is made in connection with succession of the firm by a company in the business or profession carried on by the firm subject to conditions prescribed in the *Explanation* to section 33ABA(8) and the scheme or the deposit scheme continues to apply to the company as in the case of the firm.

(6) Reserves for shipping business:
[Section 33AC[13b]]

A deduction not exceeding 100%[13b] of profits derived from the business of operation of ships (computed under the head "Profits and gains of business or profession" and before making any deduction under this section) will be allowed to an assessee being a Government company or an Indian public company engaged in the business of operation of ships subject to the following conditions:

(a) amount to be allowed as deduction is transferred to a reserve account, by debiting the profit and loss account of the previous year in respect of which the deduction is to be allowed,

(b) the aggregate of the amounts carried to such reserve account should not exceed—

(1) twice the aggregate of the amounts of the paid-up share capital, the general reserves and amounts credited to the share premium account of the assessee (applicable in relation to assessment year 2003-04 and subsequent years) [1st proviso to section 33AC(1)].

(2) twice the amount of the paid-up share capital (excluding the amounts capitalised from reserves) of the assessee (applicable in relation to assessment year 2002-03 and earlier years) [the then 1st proviso to section 33AC(1)].

If it exceeds, the relief under this section will not be allowed in respect of such excess.

The amount credited to reserve account is required to be utilised for acquiring a new ship within a period of 8 years next following the previous year in which the amount was credited. Until the acquisition of a new ship, the reserve is required to be utilised for the purposes of the business other than distribution of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

Where the amount credited to the reserve account:

(a) is not utilised for acquiring a new ship within the said period of 8 years, the amount not so utilised will be deemed to be the profits in the year immediately following the period of the said 8 years;

(b) is utilised for any purposes other than specified purposes, the amount so utilised will be deemed to be the profits in the year in which the amount was so utilised; and

(c) is utilised for purposes of acquiring a new ship and such ship is sold or transferred[14] within 3 years (upto assessment year 2003-04, within 8 years) from the end of the previous year in which it was acquired, the amount so utilised in acquiring the ship will be deemed to be the profits in the year in which the said ship was sold or transferred.

W.e.f. 1-4-2004 (assessment year 2004-05 and onwards), where the ship is sold/transferred (other than in any scheme of demerger[14]) after the expiry of period of 3 years referred to in (c) above and the sale proceeds are not utilised for the purpose of acquiring a new ship within a period of 1 year from the end of the previous year in which such sale/transfer took place, then such sale proceeds shall be deemed to be the profits of the assessment year immediately following the previous year in which the ship is sold/transferred [Section 33AC(4)].

For the purposes of this section "public company" means the one that is defined in section 3 of the Companies Act, 1956; "Government company" means the one that is defined in section 617 of the Companies Act, 1956; and "new ship" means the one that is defined in section 32AB(2)(ii) of the Income-tax Act.

(7) Expenditure on scientific research:
[Section 35]

The term "scientific research" as defined in section 43(4)(i) means "any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries". Animal husbandry includes dairy or poultry farm.

The deduction is to be allowed for the following items of expenditure—

(a) Any expenditure (not being in the nature of capital expenditure) incurred on scientific research related to the assessee's business [Section 35(1)(i)].

An *Explanation* below section 35(1)(i) provides that revenue expenditure incurred on payment of any salary [as defined in *Explanation* 2 of section 40A(5)] to personnel engaged in scientific research and on purchase of materials used in such scientific research during the period of three years immediately preceding the commencement of the business will be deemed to have been laid out or expended in the previous year in which the business is commenced. The deduction will be available only in respect of such expenditure incurred on scientific research related to the assessee's business and will be limited to the amount certified by the prescribed authority.

(b) Any expenditure of a capital nature incurred on scientific research related to the assessee's business, the whole of such expenditure incurred in any previous year shall be deducted for that previous year [Section 35(1)(iv)].

13b. For the notes on 3rd proviso inserted in section 33AC(1) and insertion of new Chapter XII-G by the Finance (No. 2) Act, 2004, refer para 5.2 on page 44.

14. For the notes on provisions relating to "Demerger of companies", refer item (31)(C) on page 128.

However, deduction will not be admissible in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after 29-2-1984 [Proviso to section 35(2)(ia)].

Where deduction is allowed in respect of any capital expenditure represented wholly or partly by an asset, under the provisions of section 35, depreciation is not allowable on the said asset for that or any subsequent assessment year [Section 35(2)(iv)].

(c) Any sum paid to a scientific research association, university, college or other institution to be used for scientific research is eligible for a weighted deduction of one and one-fourth times (i.e., @ 125%) thereof provided such association, university, etc. is approved by the Central Government [Section 35(1)(ii)].

(d) Any sum paid to a university, college or other institution to be used for research in social science or statistical research whether related to the class of business carried on or not is eligible for a weighted deduction of one and one-fourth times (i.e., @ 125%) thereof provided such university, college or institution is approved by the Central Government [Section 35(1)(iii)].

(e) Any sum paid to a National Laboratory or a University or an Indian Institute of Technology [or a specified person, from assessment year 2002-03 and onwards] for carrying out programme of scientific research, approved by the prescribed authority is eligible for a weighted deduction of one and one-fourth times (i.e., @ 125%) thereof. Such contributions will not be eligible for any other deduction/relief under the Income-tax Act. The prescribed authority for granting approval of programme shall be: (1) in the case of a National Laboratory or a University or an Indian Institute of Technology, the head of the National Laboratory or the University or the Indian Institute of Technology, as the case may be; and (2) in the case of a specified person, the Principal Scientific Advisor to the Government of India [Vide Rule 6(1A)]. Such authority shall before granting approval satisfy itself about the feasibility of carrying out the scientific research. The aforesaid authority shall submit its report to the Director-General (Income-tax Exemptions) in the prescribed Form No. 3CJ. For the definition of "National Laboratory", "University", "Indian Institute of Technology" and "specified person", refer *Explanation* to section 35(2AA) [Section 35(2AA)].

(f) Any expenditure on scientific research (other than expenditure in the nature of cost of any land or building) on in-house research and development facility incurred by a company is eligible for a weighted deduction of one and one-half times (i.e., 150%) of the expenditure so incurred [Section 35(2AB)].

The conditions for allowing weighted deduction are—

(1) the company should be engaged: *(i)* in the business of bio-technology (from assessment year 2002-03 and onwards); or *(ii)* in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing as may be notified[15] by the Board;

(2) the expenditure is incurred on scientific research on in-house research and development facility as approved by the prescribed authority. Under rule 6(1B) of the Income-tax Rules, 1962, such authority shall be the Secretary, Department of Scientific and Industrial Research. From assessment year 2002-03 and onwards, "expenditure on scientific research", in relation to drugs and pharmaceuticals referred to in (1) above, shall also include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 [*Explanation* to section 35(2AB)(1)];

(3) the expenditure referred to in (2) above is incurred on or before 31-3-2005. Expenditure incurred after 31-3-2005 will not be eligible for weighted deduction u/s. 35(2AB);

(4) the company enters into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of accounts maintained for that facility. For this purpose, application is required to be furnished by the company in prescribed Form No. 3CK; and

(5) the expenditure on which weighted deduction is allowed u/s. 35(2AB) will not be eligible for deduction under any other provisions of the Income-tax Act.

The prescribed authority shall pass an order of approval of research and development facility u/s. 35(2AB) in the prescribed Form No. 3CM. The prescribed authority shall submit its report in relation to the approval of research and development facility in the prescribed Form No. 3CL to the Director General (Income-tax Exemptions) within 60 days of its granting approval [Refer Rule 6(7A)].

15. Manufacture or production of an helicopter or aircraft being an article or thing notified for the purpose of section 35(2AB)(1) [Vide Notification No. S.O. 3261, dt. 27-10-99: 241 ITR (St.) 62]. Manufacture or production of computer software being an article or thing notified for the purpose of section 35(2AB)(1) [Vide Notification No. S.O. 452, dt. 8-2-2000: 243 ITR (St.) 25].

It may be noted that—

(1) The scientific research association, university, college or other institution referred to in section 35(1)(ii) & (iii) will be approved by the Central Government by notification in the Official Gazette;

(2) The association, institution, etc. referred to it in section 35(1)(ii) & (iii) will have to apply for the approval, or continuation thereof, in the prescribed Form No. 3CF to the Central Government.

The application for obtaining approval u/s. 35(2AA) is to be made by a sponsor in the prescribed Form No. 3CG to the prescribed authority; and

(3) For the purpose of granting approval, the Central Government will have power to call for documents or information to ascertain the genuineness of the activities of the association, institution, etc.

(8) Expenditure on acquisition of patent rights or copyrights: [Section 35A]

Under section 35A, any expenditure of a capital nature incurred after 28-2-1966 but before 1-4-1998, on the acquisition of patent rights or copyrights used for the purposes of the business shall be allowed in equal instalments spread over a period of 14 years beginning with the previous year in which such expenditure is incurred. Where such expenditure was incurred before the commencement of the business, the period of 14 years would reckon from the previous year in which the business commenced. In case of sale or extinguishment of such rights, excess realisation is brought to tax and the deficit is allowed as deduction in the year of sale/extinguishment [Section 35A(3) & (4)[16]]. Provisions of section 35A(3) & (4) will not apply in the case of amalgamating company. Consequently, amalgamating company will not be subject to tax or allowed deduction, as above. The amalgamated company can claim the deduction for the unexpired period of 14 years [Section 35A(6)].

Where such expenditure is incurred on or after 1-4-1998, the same will qualify for depreciation u/s. 32(1) and not for deduction u/s. 35A(1).

(9) Expenditure on know-how: [Section 35AB[17]]

Any lump sum consideration paid, during the previous year relevant to assessment year 1998-99 and earlier years, for acquiring any know-how for use for the purposes of assessee's business, one-sixth of the amount so paid shall be deducted from the profits of the business in the previous year of payment and in the five immediately succeeding previous years.

Where such payment is for know-how developed in a laboratory, University or institution referred to in section 32A(2B), one-third of the amount shall be deducted in the previous year of payment and in the two immediately succeeding previous years.

For the purposes of this section, "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil well or other sources of mineral deposits.

Where such consideration is paid during the previous year relevant to assessment year 1999-2000 and subsequent years, the said consideration will qualify for depreciation u/s. 32(1) and not for deduction u/s. 35AB.

(10) Amortisation of telecom licence fees: [Section 35ABB]

Section 35ABB provides for amortisation of capital expenditure *incurred* and *actually paid* by an assessee for acquiring any right to operate telecommunication services (telecom licence fee), over the period of the licence. The amortisation will be allowed in the previous year in which the licence fee is actually paid and the subsequent previous year or years during which the licence is in force [Section 35ABB (1)].

Amortisation of capital expenditure will also be allowed in respect of licence fees (telecom licence fees) paid by an assessee before the commencement of business to operate telecommunication services or thereafter at any time during any previous year. Amortisation will be allowed over the period of licence beginning with the previous year in which the business commenced and the subsequent previous year or years during which the licence is in force [Section 35ABB(1)].

Where a deduction is allowed u/s. 35ABB(1), in respect of expenditure referred to in that sub-section, no depreciation u/s. 32(1) will be allowed for the same previous year or any subsequent previous years [Section 35ABB(8)].

16. For the notes on provisions relating to "Demerger of companies", refer item (31)(D) on page 128.
17. For the notes on provisions relating to "Demerger of companies", refer item (31)(E) on page 128.

If the licence is transferred and the proceeds of the transfer (in so far as they consist of capital sums) are less than the expenditure remaining unallowed, a deduction equal to the unallowed expenditure as reduced by the proceeds of the transfer will be allowed in the previous year in which the licence is transferred [Section 35ABB(2)]. Where the said proceeds of the transfer (in so far as they consist of capital sums) exceed the unallowed expenditure, the excess amount will be charged to income-tax as business income in the year of transfer [Section 35ABB(3)]. Where the licence is transferred in part, the deduction to be allowed will be arrived at by reducing the proceeds of transfer (in so far as they consist of capital sums) from the unallowed expenditure and dividing the balance by the number of unexpired previous years of the licence at the beginning of the previous year of the transfer [Section 35ABB(5)]. Where the whole or any part of the licence is transferred and the proceeds of the transfer (in so far as they consist of capital sums) are not less than the amount of unallowed expenditure, then no deduction for such expenditure shall be allowed u/s. 35ABB(1) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year(s) [Section 35ABB(4)].

However, where in a scheme of amalgamation[18], the amalgamating company sells or transfers the licence to the amalgamated company (being an Indian company) the proceeds will not be subject to income-tax or deduction as above. The amalgamated company will get the deduction for unexpired portion of the licence. It will also be subject to income-tax or deduction in case of transfer of licence, as if the amalgamating company had not transferred the licence [Section 35ABB(6)].

(11) Expenditure for promoting social/economic welfare or uplift of the public: [Section 35AC]

Section 35AC provides that an assessee carrying on business or profession is entitled to deduct payment made for financing any eligible project or scheme for promoting social and economic welfare of, or uplift of, the public. An assessee being a company may also incur expenditure directly on any such eligible project or scheme. The qualifying expenditure, when paid as donation, would consist of payment made to a public sector company or a local authority or an approved association or an institution for being used in any such eligible project or scheme. Eligible project or scheme will be notified by the Central Government authority i.e., National Committee for approving such association/institution will be prescribed through rules [Refer Rules 11F to 11N].

The claim for deduction should be supported by a certificate in the prescribed Form No. 58A to be obtained from the payee and the said certificate is required to be furnished along with his return of income. An assessee being a company incurring expenditure directly, the claim for deduction should be supported by a certificate in the prescribed Form No. 58B to be obtained from an accountant as defined in the *Explanation* to section 288(2) and such certificate is required to be furnished along with the return of income.

Where a deduction under this section is claimed and allowed for any assessment year in respect of any payment/expenditure as stated above, deduction shall not be allowed in respect of such payment/expenditure under any other provision of the Income-tax Act for the same or any other assessment year.

The National Committee is empowered to withdraw the approval earlier granted to an association or institution if it is satisfied that the project/scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted/notified and to recommend the withdrawal of notification (if, notified) regarding an eligible project/scheme to the Central Government [Section 35AC(4) & (5)[18a]].

W.e.f. 1-4-2003 (assessment year 2003-04 and onwards), in the previous year of withdrawal of approval/ notification u/s. 35AC(4)/(5), the total amount received by the public sector company/local authority/association/ institution or the deduction claimed by a company under the proviso to section 35AC(1), shall be deemed to be the income of such company/authority/association/institution and will be taxed at the maximum marginal rate in force for that year [Section 35AC(6)].

(12) Expenditure by way of payment to associations and institutions for carrying out rural development programmes: [Section 35CCA]

(a) This section provides for the deduction of expenditure incurred, by an assessee carrying on business or profession, by way of payment of any sum to an association or institution, to be used for the purposes of carrying out programme of rural development. The deduction is to be allowed subject to condition that the association or the institution, as also the programme for rural development for which such sums are paid, have been approved by the prescribed authority. Such approval is, however, to be given for a period of not more than three years at a time. If deduction is claimed and allowed under this section, such expenditure will not again be taken into account for the purposes of deductions under sections 35C, 35CC, 80G or any other provision of the Act for the same or any other assessment year.

(b) Deduction is allowable in respect of donations made by an assessee carrying on business or profession:

(1) to any approved association or institution, which has as its object the training of persons for implementing programmes of rural development; or

18. For the notes on provisions relating to "Demerger of companies", refer item (31)(F) on page 128.

18a. For the notes on substituted sections 35AC(4) & (5) by the Finance (No. 2) Act, 2004, refer para 5.3 on page 45.

(2) to National Fund for Rural Development set up and notified by the Central Government in this behalf [Vide Notification No. G.S.R. 84(E), dt. February 28, 1984]; or

(3) to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf.

The deduction for contribution to approved rural development programmes [mentioned in (a)] and for training of persons for implementing rural development programmes [mentioned in (b)(1)] will not be available unless:

(i) the approval of the prescribed authority had been obtained before 1-3-1983;

(ii) the work in relation to the programme or training of persons has commenced before 1-3-1983; and

(iii) the assessee furnishes a certificate from the association or institution to the above effect [the association or institution before issuing the certificate must obtain authorisation to issue the certificate from the prescribed authority].

It may be noted that in cases where the contribution/donation is made after 28-2-1983, the deduction under this section will be allowed where such programme involves work by way of construction of any building or other structure or the laying of any road or the construction or boring of a well or tube-well or the installation of any plant or machinery, and such work has commenced before 1-3-1983.

(13) Expenditure by way of payment to associations or institutions for carrying out programmes of conservation of natural resources: [Section 35CCB]

Where an assessee incurs any expenditure on or before 31-3-2002, by way of payment of any sum—

(1) to an approved association or institution, which has as its object the undertaking of approved programmes of conservation of natural resources or of afforestation, to be used for carrying out such programmes, or

(2) to such fund for afforestation as may be notified by the Central Government,

the assessee will be allowed a deduction of the amount of such expenditure incurred during the previous year.

Once the deduction is allowed under this section, such expenditure will not qualify for deduction under any other provision of the Act for the same or any other assessment year.

Such expenditure incurred on or after 1-4-2002, is not eligible for deduction u/s. 35CCB. However, such expenditure incurred on or after 1-4-2002, is eligible for deduction u/s. 35AC read with amended rule 11K [Refer Para 30.3 of Circular No. 8, dt. 27-8-2002: 258 ITR (St.) 13-35].

(14) Amortisation of preliminary expenses: [Section 35D]

Section 35D(1) provides for the amortisation of certain preliminary expenses incurred by an Indian company or a resident assessee other than a company before the commencement of business or in connection with the extension of an industrial undertaking or the setting up of a new industrial unit.

The maximum amount of expenditure eligible for amortisation is restricted to 5%[19] of the "cost of the project" as defined in clause *(a)* of the *Explanation* to sub-section (3) of section 35D. Where the assessee is an Indian company, at the option of the company, such expenditure is restricted to 5%[19] of the capital employed as defined in clause *(b)* of the said *Explanation*. One-fifth[19] of such expenditure will be allowed as a deduction in each of the five[19] successive years beginning with the year of commencement of business or in the case of an existing industrial undertaking the year in which extension of such undertaking is completed or the year in which the new industrial unit set up by such undertaking commences production or operation [Section 35D(1)].

Where a deduction for such expenditure is allowed u/s. 35D in any assessment year, no deduction will be allowed under any other provisions of the Income-tax Act for the same or any other assessment year [Section 35D(6)].

In the case of an assessee other than a company or a co-operative society, the concession is subject to the condition that the accounts of the relevant year/years in which the preliminary expenditure was incurred are audited by an accountant as defined in the *Explanation* to section 288(2) and a report of such audit is furnished in the prescribed Form No. 3B along with the return of income for the first year in which the amortisation is claimed [Section 35D(4)].

Where the undertaking of an Indian company entitled to deduction u/s. 35D(1), is transferred, before the expiry of period specified in sub-section (1), to another Indian company in a scheme of amalgamation, then, no deduction will be allowed to the amalgamating company for the previous year in which the amalgamation takes place; and the deduction will be allowed to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place [Section 35D(5)[20]].

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19. In relation to such expenditure incurred on or before 31-3-1998, amortisation is restricted to 2½% instead of 5% of the "cost of the project"; such expenditure is restricted to 2½% instead of 5% of capital employed; One-tenth instead of one-fifth of such expenditure will be allowed, and; a deduction in each of the ten instead of in each of the five successive previous years.

20. For the notes on provisions relating to "Demerger of companies", refer item (31)(G) on page 128.

(15) Amortisation of expenditure incurred under voluntary retirement scheme:
[Section 35DDA]

Section 35DDA provides that any expenditure incurred in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement, in accordance with the scheme(s) of voluntary retirement, 1/5th of the amount so paid will be allowed as deduction in the previous year of payment, and the balance will be deducted in equal instalments for each of the four succeeding previous years [Section 35DDA(1)].

In the event of amalgamation of companies, demerger of companies or reorganisation of business, the said amortisation will be allowed for the remaining period to the amalgamated company, resulting company or the successor company, as if no amalgamation, demerger or reorganisation had taken place. No deduction will be allowed to amalgamating company, demerged company, or the proprietary concern or the firm for the previous year in which amalgamation, demerger or reorganisation takes place [Section 35DDA(2) to (5)].

The deduction allowed u/s. 35DDA (1) will not be allowed as deduction under any other provisions of the Income-tax Act [Section 35DDA(6)].

(16) Insurance against risk of damage or destruction of stocks, stores, cattle & on health of employees:
[Section 36(1)(i), 36(1)(ia) & 36(1)(ib)]

The amount of insurance premium paid to cover such risk is an admissible deduction provided the stores or stocks are used for the purpose of business or profession [Section 36(1)(i)].

The amount of premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a primary milk co-operative society affiliated to it will be allowed as a deduction in the computation of profits of the federal milk co-operative society [Section 36(1)(ia)].

The amount of any premium paid by an employer by cheque for insurance on health of his employees in accordance with a scheme framed by the General Insurance Corporation of India and approved by the Central Government is allowable as deduction [Section 36(1)(ib)].

(17) Bonus or commission paid to employee:
[Section 36(1)(ii)]

Any sum paid to an employee as bonus or commission for services rendered is an allowable deduction.

However, under section 43B, bonus or commission to employee will be allowed as deduction only in the year in which it is actually paid. For further details, refer item (i) on page 129.

(18) Interest on borrowed capital:
[Section 36(1)(iii)]

Interest paid on capital borrowed for the purposes of business or profession is an allowable deduction.

It may be noted that, from assessment year 2004-05 and onwards, interest paid on capital borrowed for acquisition of an asset for extension of existing business or profession, whether capitalised in the books of account or not; will not be allowed as deduction from the date of the said borrowing till the date on which such asset was first put to use [Proviso to section 36(1)(iii)]. In other words, the aforesiad interest will be added to the cost of acquisition of the said asset and admissible depreciation will be allowed thereon [Vide *Explanation* 8 to section 43(1)]. The interest, after the said asset is first put to use will be allowed as deduction u/s. 36(1)(iii).

However, interest paid by a firm to its partners is allowable as deduction u/s. 40(b) provided such interest payment is authorised by the partnership deed [For details, refer paras 5 to 8 of item (B) on page 195].

(19) Contributions towards recognised provident fund or an approved superannuation fund:
[Section 36(1)(iv)]

Such contributions will be allowed as deduction under section 36(1)(iv) subject to the prescribed limits (as per Part A & B of the Fourth Schedule to the Income-tax Act). This deduction is subject to the provisions of section 43B. For details, refer item (i) on page 129.

(20) Contributions towards an approved gratuity fund:
[Section 36(1)(v)]

Any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust is allowable as deduction. This deduction is subject to the provisions of section 43B. For details, refer item (i) on page 129.

(21) Contributions received from employees to any fund for welfare of the employees:
[Section 36(1)(va)]

Any sum received by the assessee by way of contributions from his employees to provident fund or superannuation fund or any fund set up under the Employees' State Insurance Act or any fund for the welfare of such employees will be treated as income under section 2(24)(x) and included in the income of the assessee.

However, deduction will be allowed in respect of any such sum received as stated above only if such sum is credited by the assessee to the employee's account in relevant fund on or before the due date, i.e., the date by which the assessee is required as an employer to credit such contribution to the employee's account under the provisions of any law or term of contract of service or otherwise.

(22) Deduction in respect of animals used for business which have died or become permanently useless:
[Section 36(1)(vi)]

In respect of animals used for the purposes of business or profession (but not as stock-in-trade) who have died or become permanently useless, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of carcasses or animals, will be allowed as a deduction.

(23) Bad debt:
[Section 36(1)(vii) & 36(2)]

Deduction is to be allowed in respect of any bad debt or part thereof (other than any provision for bad and doubtful debts made in the books of account) which is written off as irrecoverable in the accounts of the assessee for the previous year subject to the following conditions laid down in section 36(2):

(a) the debt must have been taken into account in the computation of the income of the previous year or of an earlier previous year and the amount of such debt or part thereof is written off during previous year;

(b) in the case of banking or money lending business carried on by the assessee, the debt represents money lent in the ordinary course of such business.

Under section 36(2)(ii), if the amount ultimately recovered on any debt is less than difference between the debt and the deduction allowed in respect thereof, the deficiency shall be deductible in the previous year in which the ultimate recovery is made.

(24) Expenditure incurred by certain corporation/body corporate:
[Section 36(1)(xii)]

From assessment year 2002-03 and onwards, any expenditure, not being capital expenditure, incurred by a corporation or a body corporate constituted/established by a Central, State or Provincial Act for the objects and purposes authorised by the Act constituting/establishing the said corporation/body corporate, will be allowed as deduction.

(25) Entertainment expenditure:
[Section 37(1)]

From assessment year 1998-99 and onwards, entertainment expenditure actually incurred will be allowed as deduction under sub-section (1) of section 37. Said expenditure will not be subject to ceiling limit prescribed in sub-section (2) of section 37 as the said sub-section (2) has been omitted w.e.f. 1-4-1998.

(26) Advertisement expenditure:
[Section 37(1) & 37(2B)]

(1) From assessment year 1998-99 and onwards, advertisement expenditure actually incurred [other than those mentioned in (2) hereafter] will be allowed as deduction under sub-section (1) of section 37. Said expenditure will not be subject to ceiling limit prescribed in sub-section (3) of section 37 (read with Rule 6B) as the said sub-section (3) has been omitted w.e.f. 1-4-1998 (assessment year 1998-99 and onwards).

(2) Expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party will not be allowed as a business expenditure in computing the total income of the assessee [Section 37(2B)].

(27) Expenditure in respect of travelling, etc.:
[Section 37(1)]

From assessment year 1998-99 and onwards, travelling expenditure actually incurred will be allowed as deduction under sub-section (1) of section 37. Said expenditure will not be subject to ceiling limit prescribed in sub-section (3) of section 37 (read with Rule 6D) as the said sub-section has been omitted w.e.f. 1-4-1998.

(28) Expenditure incurred on the maintenance of guest-house:
[Section 37(1)]

From assessment year 1998-99 and onwards expenditure incurred on the maintenance of guest-house will be allowed as deduction under sub-section (1) of section 37. Said expenditure will not be disallowed under sub-section (4) read with sub-section (5) of section 37 as the said sub-sections (4) & (5) have been omitted w.e.f. 1-4-1998 (assessment year 1998-99 and onwards).

(29) Expenses deductible from commission earned by agents of life insurance, etc:

(A) In respect of life insurance agents:

[Vide Circular No. 648, dt. 30-3-1993: 201 ITR (St.) 4]

In supersession of the Circular and Instruction [i.e., F.No. 14/9/65-IT (A-I) dt. 22-9-65 & Instruction No. 1546 dt. 6-1-84] the Board have decided that from assessment year 1993-94 and onwards, the benefit of *ad hoc* deduction to insurance agents of the Life Insurance Corporation having total commission (including first year commission, renewal commission and bonus commission) of less than Rs. 60,000 for the year, and not maintaining detailed accounts for the expenses incurred by them, may be allowed as follows:

(i) where separate figures of first year and renewal commission are available, 50% of first year commission and 15% of the renewal commission;

(ii) where separate figures as above are not available, 33⅓% of the gross commission.

In both the above cases, the *ad hoc* deduction will be subject to a ceiling limit of Rs. 20,000.

The "gross commission" in *(ii)* above will include first year as well as renewal commission but will exclude bonus commission.

The complete amount of bonus commission is taxable and will be taken into account for purposes of computing the total income, and no *ad hoc* deduction will be allowed from this amount.

The benefit of *ad hoc* deduction will not be available to agents who have earned total commission of more than Rs. 60,000 during the year. The admissibility of the expenditure claimed by such agents will be decided by the Assessing Officers as per the provisions of the Income-tax Act.

(B) In respect of agents appointed under the Standardised Agency System for Government securities and the agents of Post Office Time Deposits and Unit Trust of India:

[Vide Circular No. 594, dt. 27-2-1991/15-5-1991: 188 ITR (St.) 105]

Where no detailed accounts are maintained by such agents and the gross commission received by them is less than Rs. 60,000, the benefit of an *ad hoc* deduction for expenses, at the rate of 50% of the gross receipts of commission, will be allowed to the authorised agents of the Unit Trust of India and the agents of the following securities:—

(1) National Savings Certificates VIII Issue;... (2) Social Security Certificates;... (3) Post Office Time Deposit Accounts;... (4) Post Office Recurring Deposit Accounts;... (5) National Savings Scheme, 1987;... (6) Post Office Monthly Income Account Scheme;... (7) Kisan Vikas Patra;... (8) Public Provident Fund Accounts; and... (9) Deposit Scheme of Retiring Government Employees, 1989.

(C) In respect of agents of mutual funds notified u/s. 10(23D):

[Vide Circular No. 677, dt. 28-1-1994: 205 ITR (St.) 331]

The benefit of *ad hoc* deduction for expenses @ 50% of the gross receipts of commission will be allowed to the agents of those mutual funds which are notified for the purposes of section 10(23D). The benefit of *ad hoc* deduction will only be available to agents not maintaining detailed accounts for the expenses incurred by them and having gross commission of less than Rs. 60,000 for the year, including gross commission as authorised agents of the Unit Trust of India and agents of securities specified in Circular No. 594, dt. 27-2-1991/15-5-1991 [Refer (B) above], as well as total commission from the Life Insurance Corporation as specified in Circular No. 648, dt. 30-3-1993 [Refer (A) above].

The benefit of *ad hoc* deduction will not be available to agents who have earned gross commission as computed above of more than Rs. 60,000 from all the abovementioned sources put together during the year.

(30) General deductions:
[Section 37(1)]

Any other expenditure not specifically covered by sections 30 to 36 of the Income-tax Act and which is not in the nature of capital expenditure or personal expenses of the assessee is to be allowed as a deduction, if it is laid out or expended wholly and exclusively for the purposes of business or profession.

However, any expenditure incurred by an assessee for a purpose which is an offence or which is prohibited by law will not be deemed to have been incurred for the purposes of business or profession and no deduction or allowance will be made in respect of such expenditure [*Explanation* to section 37(1)].

A few instances of allowable expenditure are:

(1) Audit fees.

(2) Expenditure incurred by way of fees, etc. in connection with any proceeding under the Income-tax Act before any income-tax authority or Settlement Commission or competent authority or Appellate Tribunal or any court.

(3) Commission paid for securing business.
(4) Subscriptions to a business chamber of commerce or other business associations.
(5) Pension paid to employees on retirement.
(6) Losses on account of embezzlement or theft which are incidental to the business.
(7) Premiums for insurance against loss of profits.
(8) Expenses incurred in defending title to business premises.
(9) Expenditure in connection with travelling by employees, etc.
(10) Expenditure incurred by employer on training of apprentices covered under the Apprentices Act, 1961 [Circular No. 192, dt. 10-3-1976: 109 ITR (St.) 116].
(11) Professional tax paid by a person carrying on a business or profession [Circular No. 16, dt. 18-9-1969: 1970 Indian Tax Laws page No. LXXXIII].
(12) Compensation paid by an employer to his employee for terminating the latter's services.
(13) Sales-tax and expenses incurred in original proceedings for assessment to sales-tax as also in appeals arising from such proceedings.
(14) Deposit made under the "Own Your Telephone Scheme": The Central Board of Direct Taxes (CBDT) have issued instruction to the effect that deduction will be allowed in the year of payment and in case the telephone is not installed and money is paid back, it will be charged to tax under section 41(1) of the Income-tax Act, 1961 [Vide Board's letter No. F. No. 204/70/75-IT(AII), dt. 10-5-1976].
(15) Deposit made under the "Tatkal Telephone Deposit Scheme": The CBDT have clarified that the amount paid towards deposit may be treated as a revenue expenditure and allowable as a deduction in the year of payment if the assessee makes such a claim. However, as and when any part of the amount is refunded to the assessee on surrender of the telephone or otherwise, the refunded amount shall be treated as income of the year in which the amount is so refunded and brought to tax u/s. 41(1) of the Income-tax Act [Circular No. 671, dt. 27-10-1993: 204 ITR (St.) 156].
(16) Security Deposit for Telex connection: The CBDT have clarified that the amount paid towards security deposit may be treated as a revenue expenditure and allowable as a deduction when Telex is installed. However, when Telex connection is finally closed, the deposit so refunded shall be treated as income of the year in which it is refunded [Circular No. 420, dt. 4-6-1985: 155 ITR (St.) 43].
(17) Expenditure incurred in connection with local festivals such as Diwali and Mahurat: The expenses in respect of such expenditure will be allowed in the income-tax assessment subject to the Income-tax Officer being satisfied that the expenses are admissible as a deduction under the law and are not expenses of a personal, social or religious nature [Circular letter No. 13A/20/68-IT(AII), dt. 3-10-1968].
(18) Expenditure incurred on civil defence measures (as specified) even when there is no emergency [Circular No. 316, dt. 30-9-1981: 132 ITR (St.)11].

(31) Provisions relating to demerger of companies:

[Clauses (19AA), (19AAA) & (41A) of section 2, sections 32(1), 33AC(3)(c), 35A(7), 35AB(3), 35ABB(7), 35D(5A), 35DD, 41(1), 43(1) & 43(6)]

Salient features of provisions relating to demerger of companies pertaining to the computation of business income is given hereafter and those pertaining to computation of capital gain are given on page 151.

(A) DEFINITIONS: "*Demerger*", in relation to companies, means the transfer, pursuant to a scheme of arrangement u/s. 391 to 394 of the Companies Act, 1956, by a 'demerged company' of its one or more undertakings to any 'resulting company' subject to conditions that: (1) all the property/liabilities of the transferred undertaking immediately before the demerger becomes property/liability of the resulting company by virtue of the demerger; (2) the property and the liabilities of the undertaking(s) are to be transferred by the demerged company at the book value immediately before the demerger; (3) the resulting company issues its shares to shareholders of the demerged company on a proportionate basis, as consideration of the demerger; (4) the shareholders holding not less than three-fourths (i.e., 75%) in value of the shares in the demerged company (other than shares already held therein immediately before the demerger by the nominee/subsidiary of resulting company) should become shareholders of the resulting company(s); (5) transfer of the undertaking is on a going concern basis; and (6) the demerger should be in accordance with such conditions as may be notified u/s. 72A(5). For this purpose, "undertaking" will include any part of an undertaking/unit/division of an undertaking or a business activity taken as a whole, but will not include individual assets/liabilities or any combination thereof not constituting a business activity. "Liabilities" for this purpose will include liabilities as specified in the *Explanation* 2 to section 2(19AA). 'Value of assets' consequent to their revaluation is to be ignored for the purpose of condition (2) above [Section 2(19AA)].

"Demerged company" is defined to mean the company whose undertaking is transferred, pursuant to a demerger, to a resulting company [Section 2(19AAA)].

"Resulting company" is defined to mean one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company [Section 2(41A)].

(B) NORMAL DEPRECIATION: Under the then 5th proviso to section 32(1), where the assets are subject to succession to business/profession [referred to in sections 47(xiii), 47 (xiv) &170] or amalgamation of companies in a previous year, the total depreciation allowable on such assets in that previous year is to be restricted to the depreciation at the prescribed rates, as if the succession or amalgamation had not taken place. The allowable depreciation will be apportioned between the successor and predecessor or the amalgamated company and amalgamating company, as the case may be, on the basis of number of days for which assets were used by each of them. Under substituted 5th proviso to section 32(1), the above provisions have been made applicable to demerged company and resulting company also in the case of demerger.

(C) RESERVES FOR SHIPPING BUSINESS: A special deduction is allowed for shipping business subject to conditions [For details, refer item (6) on page 119]. One of the condition is that the new ship acquired, out of the amount credited to reserve account u/s. 33AC(1), should not be sold or transferred within 3 years (upto assessment year 2003-04, within 8 years) from the end of the previous year in which it was acquired [Section 33AC(3)(c)]. Under the amended section 33AC(3)(c), sale or transfer in any scheme of demerger has been excluded from the above condition. That is, reserve utilised for acquiring new ship will not be taxed as income in the previous year of such sale or transfer under a scheme of demerger.

(D) PATENT RIGHTS/COPYRIGHTS: Capital expenditure incurred before 1-4-1998 on acquisition of patent rights or copyrights is allowable spread over a period of 14 years beginning with the previous year in which such expenditure is incurred [For details, refer item (8) on page 121]. In case of sale or extinguishment of such rights, excess realisation is brought to tax and the deficit is allowed as deduction in the year of sale/extinguishment [Section 35A(3) & (4)]. Sub-section (7) provides that provisions of sub-sections (3) & (4) will not apply in the case of the demerged company. Consequently, demerged company will not be subjected to tax or allowed deduction as above. The resulting company can claim the deduction for the unexpired portion of 14 years.

(E) EXPENDITURE ON KNOW-HOW: One-sixth or one-third of the expenditure on know-how is allowable for 6 or 3 years, respectively [For details, refer item (9) on page 121]. Sub-section (3) of section 35AB provides that where there is a transfer of an undertaking under the scheme of amalgamation or demerger, the amalgamated or the resulting company will be entitled to claim the deduction for the remaining years, if any, as if no amalgamation or demerger had taken place.

(F) AMORTISATION OF TELECOM LICENCE FEES: Telecom licence fees is allowed as deduction over the period of the licence, subject to conditions [For details, refer item (10) on pp. 122]. Sub-section (7) of section 35ABB provides that if in a scheme of demerger, transfer of licence to resulting company (being an Indian company) takes place, the existing provisions of sub-sections (2), (3) & (4) of section 35ABB providing for taxing excess realisation or allowing deduction for deficit will not apply to the demerged company. Further, provisions of section 35ABB will apply to the resulting company as they would have applied to demerged company if the latter had not transferred the licence.

(G) AMORTISATION OF PRELIMINARY EXPENSES: Amortisation of certain preliminary expenses is allowable u/s. 35D subject to conditions [For details, refer item (14) on page 123]. Sub-section (5A) of section 35D provides that where the undertaking of a demerged company, entitled to deduction u/s. 35D(1), is transferred before the expiry of period specified in sub-section (1), to a resulting company in a scheme of demerger, then no deduction will be allowed to demerged company for the previous year in which the demerger takes place; and the deduction will be allowed to the resulting company, as they would have applied to the demerged company if the demerger had not taken place.

(H) AMORTISATION OF EXPENDITURE IN CASE OF AMALGAMATION/DEMERGER: Section 35DD provides that where any expenditure is incurred, by an Indian company, on or after 1-4-1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, one-fifth of such expenditure will be allowed for five successive previous years beginning with the previous year in which the amalgamation or demerger takes place. Where deduction for such expenditure is allowed u/s. 35DD(1), no deduction will be allowed under any other provision of the Income-tax Act.

(I) RECEIPTS DEEMED TO BE PROFITS & GAINS OF BUSINESS OR PROFESSION: Where any allowance or deduction is allowed in any assessment year and the assessee receives in any subsequent assessment

year the sum, the same will be brought to tax u/s. 41(1). Where a successor assessee or amalgamated company receives the sum so allowed to predecessor it will be taxed in the case of successor-in-business or profession under *Explanation 2* to section 41(1) [For details, refer item (iv)(a) on page 105]. Clause (iv) of *Explanation 2* to section 41(1) provides that in the case of demerger, such sum will be taxed in the resulting company's case.

(J) ACTUAL COST OF ASSET: Section 43(1) defines actual cost [For details, refer item (viii) on page 107]. *Explanation 7A* to section 43(1) defines actual cost of asset in the case of demerger. The actual cost of the transferred capital asset by the demerged company to the resulting Indian company shall be the same as it would have been if the demerged company had continued to hold the asset for its own business. However, such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.

(K) WRITTEN DOWN VALUE: Section 43(6) defines written down value [For details, refer item (x) on page 107]. *Explanation 2A* to section 43(6) provides that in the case of demerger, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the written down value of the assets transferred to the resulting company. *Explanation 2B* to section 43(6) provides for arriving at the written down value in the case of resulting company as a result of transfer covered under *Explanation 2A*. The written down value of the resulting company for such asset will be its written down value of the demerged company immediately before the demerger[21].

AMOUNTS NOT DEDUCTIBLE FROM BUSINESS INCOME

[Sections 40, 40A & 43B]

(i) Disallowance of unpaid statutory liability:

[Section 43B]

In the following cases, deduction otherwise allowable under the Income-tax Act will not be allowed unless the amounts are actually paid by the due dates specified against each item of expenditure/liability. If these liabilities are disallowed under section 43B in the year of provision, it will be allowed in succeeding year or years when actually paid.

	Expenditure/Liability	*"Due date" for payment to claim deduction in the same previous year in which liability arose*
(a)	Tax, duty, cess or fees, under any law (e.g. Sales-tax, Excise duty, etc.)	before due date for filing return of income u/s. 139(1) of the relevant previous year.
(b)	Employer's contribution to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees	before due date for filing return of income u/s. 139(1) of the relevant previous year [in relation to assessment year 2004-05 and onwards[22]].
(c)	Bonus or commission for services rendered payable to employees referred to in section 36(1)(ii)	before due date for filing return of income u/s. 139(1) of the relevant previous year.
(d)	From assessment year 2002-03 and onwards, any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee (i.e., leave encashment)	before due date for filing return of income u/s. 139(1) of the relevant previous year.
(e)	Interest on any loan or borrowing from any public financial institution or a State Financial Corporation or a State Industrial Investment Corporation, in accordance with the terms and conditions of loan/borrowing agreement	before due date for filing return of income u/s. 139(1) of the relevant previous year.
(f)	Interest on any loan or advances[23] from a scheduled bank[24] in accordance with the terms and conditions of the agreement governing such loan or advances[23]	before due date for filing return of income u/s. 139(1) of the relevant previous year.

NOTES:

(1) In respect of accrued liabilities, even if they are actually payable after the end of the previous year, deduction in the previous year will be allowed only if actually paid by the due dates given above. For example, sales-tax liability of the last quarter is payable in succeeding previous year. But to get deduction therefor, it has to be paid before the due date for filing return of income u/s. 139(1). Similarly, upto assessment year 2003-04, due date for crediting employer's contribution to provident fund, etc. falls in the succeeding previous year, to get deduction, the same has to be paid by the due date as indicated in footnote No. 22.

21. Upto assessment year 2003-04, the written down value (WDV) of the resulting company for such asset will be its WDV in the books of account of the demerged company immediately before the demerger.

22. In relation to assessment year 2003-04 and earlier years, on or before the "due date" for crediting employee's account in the relevant fund as laid down in law, regulation or contract of service relating to such fund [Also refer note 2 & 4].

23. Upto assessment year 2003-04, for the words "loan or advances" & "such loan or advances", read "term loan" & "such loan", respectively.

24. 'Scheduled bank' means scheduled bank as defined in the *Explanation* to section 11(5)(iii) *which includes co-operative bank also.*

(2) Upto assessment year 2003-04, if employer's contribution to provident fund, etc. is paid by cheque on or before the due date, deduction will be allowed only if the cheque is realised within 15 days from the due date.

(3) Where the above liabilities have already been allowed on accrual basis in any earlier previous year, the same will not again be allowed on payment basis in the year of actual payment.

(4) Where deduction is *not* allowed due to non-payment before the due dates, the same will be allowed in the year of actual payment. However, in respect of contribution to provident fund, etc., [referred to in item (b) read with footnote No. 22 on page 129] such deduction will not be allowed, upto assessment year 2003-04, if paid after due date i.e., the date by which an employer is required to credit the "contribution" to the employees' account in the relevant fund. To get deduction, the payment/contribution should be made on or before the due date [Vide Para 12.1 of Circular No. 495, dt. 22-9-87: 168 ITR (St.) 87].

(5) Where payments are made before filing return of income u/s. 139(1) and not within the same previous year, either the evidence of such payment or as per Circular No. 601, dt. 4-6-91 [190 ITR (St.) 4], a certificate from an accountant (as defined in the *Explanation* to section 288)/institution concerned, as the case may be, should be enclosed with the return of income. Such evidence/certificate if not filed along with the return of income, the deduction will not be allowed. If evidence for such payments had been omitted to be furnished along with the return, the Assessing Officer can entertain application u/s. 154 for rectification of the order u/s. 143(3) and decide the same on merits [Vide Circular No. 669, dt. 25-10-1993: 204 ITR (St.) 105]. The assessees are advised to ensure that the proof of payment/certificate is filed along with the return of income.

(6) The Central Board of Direct Taxes have clarified in Circular No. 496, dt. 25-9-1987 [Refer 169 ITR (St.) 53] and Circular No. 674, dt. 29-12-1993 [Refer 205 ITR (St.) 119], that "if the State Governments make an amendment in the Sales Tax Act or issue notification through Government orders to the effect that the sales tax deferred under the scheme (i.e., sales tax deferrel scheme) shall be treated as actually paid, such a deeming provision will meet the requirements of section 43B. The Board have decided that where amendments are made in the sales tax laws or notification is issued on these lines, the statutory liability shall be treated to have been discharged for the purposes of section 43B of the Act.".

(ii) Expenditure not deductible:
[Sections 40[24a] & 40A]

The following amounts are not admissible deductions for the purpose of computing income from business or profession:

(1) From assessment year 2004-05 and onwards, any interest (not being interest on a loan issued for public subscription before 1-4-1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable: (a) outside India, or (b) in India, to a non-resident, not being a company or to a foreign company, will not be allowed as deduction if tax thereon has not been deducted or, after deduction, has not been paid before the expiry of the time prescribed u/s. 200(1) and in accordance with other provisions of Chapter XVII-B. Even when an agent for non-resident has been appointed u/s. 163, tax has to be paid/deducted. If, the tax has been deducted under Chapter XVII-B or paid in any subsequent year, such sum shall be allowed as a deduction in the previous year in which such tax has been paid [Section 40(a)(i) read with proviso].

Upto assessment year 2003-04, any interest (not being interest on a loan issued for public subscription before 1-4-1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable outside India, on which tax has not been paid or deducted at source under Chapter XVII-B will not be allowed as deduction. Even when an agent for non-resident recipient has been appointed u/s. 163, tax has to be paid/deducted. However, if the tax is paid or deducted under Chapter XVII-B in any subsequent year, such sum shall be allowed as a deduction in the previous year in which such tax is deducted or paid [the then section 40(a)(i) read with proviso].

(2) Any payment which is chargeable under the head "Salaries" will not be allowed as deduction, if it is payable (a) outside India; or (b) to a non-resident (in relation of assessment year 2004-05 and onwards), and if the tax has not been paid thereon nor deducted at source therefrom under Chapter XVII-B [Section 40(a)(iii)].

(3) Any tax actually paid by an employer referred to in section 10(10CC) in relation to assessment year 2003-04 and subsequent years [Section 40(a)(v)].

(4) Under section 40(b), payment of interest, salary, bonus, commission or remuneration made by firm to any partner of the firm will be allowed as deduction in the assessment of firm subject to limits and conditions stated in Paras 5 to 8 of item (B) on page 195. Any payment in excess of the said limits and/or conditions will not be allowed.

(5) Under section 40(ba), in the case of an association of persons (AOP) or body of individuals (BOI), any payment of interest, salary, bonus, commission or remuneration made by the AOP/BOI to a member thereof, subject to the following conditions:

(a) interest paid by the AOP/BOI as reduced by the interest received by AOP/BOI from the concerned member(s) will be disallowed [*Explanation* 1 to section 40(ba)];

(b) where an individual is a member in a representative capacity, for example, as a karta of HUF, then, the interest paid to him in his individual capacity will not be disallowed. The net interest as explained in *(a)* above paid to the person so represented by the member, i.e., HUF, will be disallowed instead [*Explanation* 2 to section 40(ba)];

24a. For the notes on amendment of section 40(a) by the Finance (No. 2) Act, 2004, refer para 5.4 on page 45.

(c) where a member is paid interest on behalf of, or for the benefit of, any other person, such interest will not be disallowed. For example, if a member is paid interest as trustee or guardian for another person, that interest will not be disallowed [*Explanation* 3 to section 40(ba)].

(6) No deduction will be allowed, in the computation of the profits and gains of a business or profession, in respect of any provision made for the payment of gratuity to the employees on retirement or on termination of employment for any reason. This restriction will, however, not apply in relation to any provision made for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year [Section 40A(7)].

(7) No deduction will be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 or other institution for any purpose, except—

(a) where such sum is paid or contributed (within the limits laid down under the relevant provisions) to a recognised provident fund or an approved gratuity fund or an approved superannuation fund or for the purposes and to the extent required by or under any other law;

(b) where the Assessing Officer is satisfied that the fund, trust, company, association of persons, society, etc. has before the *1st day of March, 1984, bona-fide* laid down or expended any expenditure (not being in the nature of capital expenditure) wholly & exclusively for the welfare of the employees of the assessee.

In case no deduction has been allowed in respect of such sum, the amount of such expenditure shall be deducted in computing the income of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended, by the employer [Section 40A(9) & 40A(10)].

(iii) Disallowance of expenditure incurred in business or profession in respect of which payment in a sum exceeding Rs. 20,000/- is made otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft:

[Section 40A(3)]

Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding Rs. 20,000 otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, such expenditure shall not be allowed as a deduction to the extent of 20% of such expenditure.

Under the first proviso to section 40A(3), where any liability for any expenditure incurred is allowed as a deduction on accrued basis in the relevant assessment year and subsequently during any previous year, the assessee makes any payment in respect of such liability in a sum exceeding Rs. 20,000 otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, the deduction originally allowed will be deemed to have been wrongly allowed and will be withdrawn by rectifying that assessment under section 154 within four years reckoned from the end of the assessment year next following the previous year in which the payment was so made.

No disallowance is to be made under section 40A(3) in cases and circumstances prescribed under Rule 6DD. For the text of clauses (a) to (i), refer rule 6DD of the Income-tax Rules, 1962. Text of clauses (j), (k), (l) & (m) is as under:

(j) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Income-tax Act, 1961 and when such employee—

(A) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and

(B) does not maintain any account in any bank at such place or ship;

(k) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(l) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

(m) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

Explanation.—For the purpose of this clause, the expression 'authorised dealer' or 'money changer' means a person authorised as an authorised dealer or money changer to deal in foreign currency or foreign exchange under any law for the time being in force.

(iv) Disallowance of interest on delayed payments in certain cases:

Interest on delayed payments for goods or services made by a buyer, to an ancillary or small-scale industrial undertaking will be disallowed u/s. 9 of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 from assessment year 1993-94 and onwards vide Circular No. 651, dt. 11-6-1993 [202 ITR (St.) 51] [For text of the said Act, which came into force from 23-9-1992, refer 202 ITR (St.) 51].

Special provisions relating to certain companies:

(A) DEEMED INCOME RELATING TO CERTAIN COMPANIES:

Applicable from assessment year 2001-02 & onwards:

[Section 115JB]

Minimum tax on book profit will be levied u/s. 115JB, in relation to assessment year 2001-02 and subsequent years. However, minimum tax on book profit will be levied u/s. 115JA, in relation to assessment years 1997-98 to 2000-01 [Refer sub-item (2) on page 131 of ITRR 2003-04 (65th Year of Publication)].

The salient features of section 115JB are as follows:

(I) Where the income-tax payable on total income of a company computed under the Income-tax Act, in respect of any previous year relevant to assessment year 2001-02 and onwards, is less than 7½% of its book profit, such book profit shall be deemed to be the total income of the company and the tax payable by the company on such total income shall be the amount of income-tax at the rate of 7½% (as increased by surcharge on I.T., if any) [Section 115JB(1)].

(II) For the purposes of section 115JB, every company should prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of the Schedule VI to the Companies Act, 1956. While preparing the annual accounts including profit and loss account, the accounting policies, the accounting standards, and the method & rates adopted for calculating the depreciation, should be the same as adopted for purpose of preparing such accounts including profit and loss account for the annual general meeting u/s. 210 of the Companies Act, 1956.

Where the company has adopted or adopts the financial year under the Companies Act, 1956, which is different from the previous year under the Income-tax Act, the accounts to be prepared for this purpose for the relevant previous year should correspond to the same accounting policies, accounting standards and method & rates for calculating depreciation adopted for preparing such accounts including profit and loss account for such financial year or part of such financial year falling within the relevant previous year [Section 115JB(2)].

(III) The *Explanation* to section 115JB[24b] defines the term "book profit". "Book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared in accordance with sub-para (II) above, after making the following adjustments:

(1) as increased by,—

(a) the amount of income-tax paid or payable, and the provision therefor; or

(b) amounts carried to any reserves, by whatever name called[25] *other than a reserve specified u/s. 33AC;* or

(c) provisions made for meeting liabilities, other than ascertained liabilities; or

(d) provision for losses of subsidiary companies; or

(e) dividends paid or proposed; or

(f) expenditure relatable to any income exempt under sections 10[24b] or 10A or 10B or 11 or 12 of the Income-tax Act,

if any amount referred to in (a) to (f) above is debited to profit and loss account, and

(2) as reduced by,—

(i) the amount withdrawn from any reserve or provision (excluding a reserve created before 1-4-1997 otherwise than by way of a debit to the profit and loss account), if any such amount is credited to the profit and loss account subject to the condition that the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year 1997-98 and subsequent years shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation* or *Explanation* below the 2nd proviso to section 115JA (2), as the case may be; or

(ii) income which is exempt under sections 10[24b] or 10A or 10B or 11 or 12 of the Income-tax Act, if any such amount is credited to the profit and loss account; or

(iii) amount of loss brought forward or unabsorbed depreciation, whichever is less as per the books of account. The loss shall not include depreciation. If the amount of loss brought forward or unabsorbed depreciation, is nil, then the book profit is not to be reduced by such loss or unabsorbed depreciation; or

(iv) the amount of profits eligible for deduction u/s. 80HHC, computed u/s. 80HHC(3)(a)/(b)/(c) or 80HHC(3A), and subject to conditions specified in section 80HHC; or

(v) the amount of profits eligible for deduction u/s. 80HHE, computed u/s. 80HHE(3)/80HHE(3A), and subject to conditions specified in section 80HHE; or

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24b. For the notes on amendment made in the *Explanation* to section 115JB by the Finance (No. 2) Act, 2004, refer para 5.5 & 2.9 on page 45 & 43. Also refer para 5.2 [Section 115V-O] on page 45.

25. The words in *italics* inserted by the Finance Act, 2002, w.e.f. 1-4-2003 (assessment year 2003-04 and subsequent years).

(vi) the amount of profits eligible for deduction u/s. 80HHF, computed u/s. 80HHF(3), and subject to conditions specified in section 80HHF; or

(vii) the amount of profits of a sick industrial company, during the period the company is treated as a 'sick industrial company' under section 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985.

(IV) The company to which section 115JB applies, should furnish a report in the prescribed Form No. 29B from an accountant as defined in the *Explanation* to section 288(2), certifying that the book profit has been computed in accordance with section 115JB. Such report should be filed along with the return of income furnished u/s. 139(1)/142(1)(i) [Section 115JB(4)].

(V) It has also been provided that the above provisions shall not affect the determination of the amounts to be carried forward to subsequent year or years relating to unabsorbed depreciation u/s. 32(2), unabsorbed investment allowance u/s. 32A(3), and unabsorbed losses u/s. 72(1)(ii)/73/74/74A(3) [Section 115JB(3)].

(VI) Provisions of section 115JAA [Refer item (B) hereafter] does not apply to minimum tax paid u/s. 115JB and hence no credit for tax paid u/s. 115JB will be allowed.

(VII) All other provisions of Income-tax Act, save as those mentioned hereinabove, will apply to such a company [Section 115JB(5)].

(B) TAX CREDIT IN RESPECT OF TAX PAID ON DEEMED INCOME RELATING TO CERTAIN COMPANIES:

[Section 115JAA]

W.e.f. 1-4-1997 (assessment year 1997-98 and onwards), section 115JAA provides that where tax is paid by a company for any assessment year in relation to the deemed income u/s. 115JA(1) [and not u/s. 115JB(1)], a tax credit will be allowed in subsequent assessment years. The tax credit to be allowed shall be the difference between the tax paid for any assessment year u/s. 115JA(1) and the tax payable on the total income computed in accordance with the other provisions of the Income-tax Act. The tax credit to be allowed will not bear any interest. This tax credit shall be allowed to be carried forward for five assessment years succeeding the assessment year in which the tax credit becomes allowable. The tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of the Income-tax Act other than section 115JA or section 115JB, as the case may be [Section 115JAA(4)]. The set-off in respect of brought forward tax credit will be allowed for any assessment year to the extent of an amount equal to the difference between the tax payable on the total income and the tax payable on the deemed income under sub-section (1) of section 115JA or section 115JB, as the case may be, for that assessment year [Section 115JAA(5)]. Where as a result of an order u/s. 143(1), 143(3), 144, 147, 154, 155, 245D(4), 250, 254, 260, 262, 263 or 264, the amount of tax payable under the Income-tax Act is reduced or increased, as the case may be, the amount of tax credit allowed under section 115JAA shall also be increased or reduced accordingly [Section 115JAA (6)].

Special provision for computation of cost of acquisition of certain assets:

[Section 43C]

Where the amalgamated company sells as stock-in-trade of the business after 29-2-1988, any asset [not being an asset referred to in section 45(2)] which has been acquired by it under a scheme of amalgamation, the cost of acquisition thereof for computing the profits and gains from the sale of such asset shall be the cost of the asset to the amalgamating company, as increased by the cost, if any, of any improvement thereto, and the expenditure on transfer, if any, incurred by the amalgamating company.

Similarly, where an assessee sells as stock-in-trade of the business after 29-2-1988, any asset [not being an asset referred to in section 45(2)] which has been acquired by him on total or partial partition of a Hindu undivided family, or by way of gift, or will or an irrevocable trust, the cost of acquisition thereof for computing the profits and gains from the sale of such asset shall be the cost of the asset to the transferor or donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure on transfer, if any, incurred by the transferor or donor, as the case may be. The expenditure on transfer for this purpose will also include gift-tax, if any, paid by the donor on the gift.

Special provision for computing profits and gains of business of civil construction, etc.:

[Section 44AD]

Section 44AD provides for a simplified method of computing the business income of civil contractors. The salient features of section 44AD are as under:

(a) The scheme laid down in section 44AD is optional.

(b) The provision of section 44AD applies to an assessee engaged in the business of civil construction or supply of labour for civil construction, whose gross receipts from the said business do not exceed Rs. 40,00,000. For this purpose gross receipts will not include the value of material supplied by the client. The term "civil construction" includes the construction or repair of any building, bridge, dam or other structure or of any canal or road and the execution of any works contract. It will also include the execution of any other works contract i.e., work related to electrical fittings, plumbing job, landscaping work, etc. [Vide Para 31.2 of Circular No. 684, dt. 10-6-1994: 208 ITR (St.) 30].

(c) The profit from the said business shall be deemed to be 8% of the gross receipts paid or payable to the assessee during the previous year or a higher sum as may be declared by the assessee.

(d) Any deduction allowable u/s. 30 to 38 shall be deemed to have been allowed and no further deduction under those sections shall be allowed from the deemed profit as in (c) above. However, in the case of a firm, the deduction u/s. 40(b) [i.e., interest/salary paid to any partner/working partner by a firm] will be allowed to the firm in computing the firm's deemed profit as in (c) above.

(e) Similarly, depreciation on assets used for the said business shall also be deemed to have been allowed and the written down value of the said assets shall be worked out on that basis.

(f) The assessee is not required either to maintain books of account u/s. 44AA or to get the accounts audited u/s. 44AB in respect of the aforesaid business income. In computing the monetary limits u/s. 44AA/44AB, the gross receipts, or as the case may be, the income from the business of civil construction shall be excluded.

However, if the assessee claims that the profit from the said business is less than 8% of the gross receipts in a previous year, then, he is required to maintain books of account u/s. 44AA(2) and also get the same audited u/s. 44AB, irrespective of monetary limit of gross receipts/income, of that previous year [Vide section 44AD(6)].

(g) The profit computed above shall be aggregated with the other incomes of the assessee and thereafter deductions under Chapter VI-A and tax rebates under Chapter VIII-A will be allowed.

Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages:

[Section 44AE]

The scheme is similar to the one applicable to civil contractors [Section 44AD] discussed in preceding item. The salient features of section 44AE are as under:

(1) The scheme laid down in section 44AE is optional.

(2) The scheme applies to an assessee, who owns not more than 10 goods carriages *at any time during the previous year* (as against, *throughout the previous year*, in relation to assessment year 2003-04 and earlier years) and he is engaged in the business of plying, hiring or leasing such goods carriages. The assessee who has taken goods carriage on hire purchase or on instalments, will be deemed to be the owner of such goods carriage for the purposes of this scheme. The scheme is not applicable to the persons who do not own any truck but operate trucks taken on hire [Vide Para 32 of Circular No. 684, dt. 10-6-1994: 208 ITR (St.) 31].

(3) The deemed profit of a previous year is to be computed as under:

Type of vehicle:	*Deemed profit:*
(a) For each heavy goods vehicle . .	Rs. 3,500 [Rs. 2,000, upto assessment year 2002-03] per month or part of a month,
(b) For each vehicle other than heavy goods vehicle . .	Rs. 3,150 [Rs. 1,800, upto assessment year 2002-03] per month or part of a month,

OR

profit higher than the aggregate of (a) & (b) above, as may be declared by the assessee.

(4) The assessee is not required either to maintain books of account u/s. 44AA or get the accounts audited u/s. 44AB in respect of aforesaid business income. In computing the monetary limits u/s. 44AA/44AB, the gross receipts, or as the case may be, the income from the said business shall be excluded.

However, if the assessee claims that the profit from the said business in a previous year is less than the deemed profit specified in (3) above, then, he is required to maintain books of account u/s. 44AA(2) and also get the same audited u/s. 44AB, irrespective of monetary limits of gross receipts/income, of that previous year [Vide section 44AE(7)].

(5) For the purpose of section 44AE, the expression "goods carriage" and "heavy goods vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988.

(6) The other conditions are similar to those enumerated in (d), (e) & (g) of preceding item u/s. 44AD.

Special provisions for computing profits and gains of retail business:

[Section 44AF]

Section 44AF provides for simplified method of computing the business income of retail traders. The salient features of section 44AF are as under:

(1) The scheme laid down in section 44AF is optional.

(2) The provisions of section 44AF applies to an assessee engaged in the business of retail trade

in any goods or merchandise, whose total turnover from the said business does not exceed Rs. 40,00,000 in the previous year.

(3) The profit from the said business shall be deemed to be 5% of the total turnover of the assessee during the previous year or a higher sum as may be declared by the assessee.

(4) Any deduction allowable u/s. 30 to 38 shall be deemed to have been allowed and no further deduction under those sections shall be allowed from the deemed profit as in (3) above. However, in the case of a firm, deduction u/s. 40(b) [i.e., interest/salary paid to any partner/working partner by a firm] will be allowed to the firm in computing the firm's deemed profit as in (3) above.

(5) Similarly, depreciation on assets used for the said business shall also be deemed to have been allowed and written down value of the said assets shall be worked out on that basis.

(6) The assessee is not required either to maintain books of account u/s. 44AA or to get the accounts audited u/s. 44AB in respect of the aforesaid business. In computing the monetary limits u/s. 44AA/44AB, the total turnover or, as the case may be, the income from the business of retail trade shall be excluded.

However, if the assessee claims that the profit from the business of retail trade is less than 5% of the total turnover in a previous year, then, he is required to maintain books of account u/s. 44AA(2) and also get the same audited u/s. 44AB, irrespective of monetary limits of total turnover/income, of that previous year [Vide section 44AF(5)].

(7) The profit computed above shall be aggregated with other incomes of the assessee and thereafter deductions under Chapter VI-A and tax rebates under Chapter VIII-A will be allowed.

Maintenance of books of account, etc. by certain professional persons:
[Section 44AA[26] read with Rule 6F]

(i) Under Rule 6F, persons carrying on profession viz, legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other notified profession (i.e., authorised representative, or the profession of film artist, company secretary & information technology) are required to keep and maintain the books of account and other documents specified hereunder:

(a) a cash book, i.e., a record of all cash receipts and payments, kept and maintained from day to day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a month;

(b) a journal, if the accounts are maintained according to the mercantile system of accounting;

(c) a ledger;

(d) carbon copies of machine numbered or serially numbered bills and receipts of over Rs. 25 wherever such bills and receipts are issued;

(e) original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and the expenditure incurred does not exceed Rs. 50, payment vouchers prepared and signed by the person. However, payment vouchers are not required to be maintained in cases where the cash book maintained by him contains adequate particulars in respect of such expenditure incurred by him.

The books of account and document are required to be kept and maintained at the principal place where the profession is carried on.

W.e.f. 4-2-2002[27], the books of account and other documents specified above are required to be preserved for a period of 6 years from the end of the relevant assessment year.

In addition to the books of account and other documents specified above, a person carrying on medical profession shall keep and maintain: (i) a daily case register in prescribed Form No. 3C, and (ii) an inventory under broad heads of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession as on the first and the last day of the accounting period.

It may be noted that the provisions of Rule 6F will not apply in the circumstances mentioned under proviso to Rule 6F(1). The proviso to Rule 6F(1) has been substituted, w.e.f. 6-4-2000, by the Income-tax (First Amendment) Rules, 2000 [Refer 242 ITR (St.) 206]. As per the said substituted proviso—

W.e.f. 6-4-2000, no books of account, etc. are required to be maintained in the case of any person if his total gross receipts in the profession do not exceed Rs. 1,50,000 (as against Rs. 60,000, hitherto) in any one of the three years, immediately preceding the previous year, and, in cases where the profession is newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed Rs. 1,50,000 (as against Rs. 60,000, hitherto).

26. An assessee opting for assessment of his business income on presumptive basis under sections 44AD, 44AE and 44AF [Refer pp. 133-134] is not required to maintain books of account u/s. 44AA in relation to such business income [Vide sections 44AD(4), 44AE(5) and 44AF(4)]. However, such an assessee should comply with requirements of section 44AA in respect of business which is not covered by the provisions of sections 44AD, 44AE and 44AF.

27. Upto 3-2-2002, the said books of account and other documents were required to be preserved for a period of 8 years from the end of the relevant assessment year. However, cash book and ledger were required to be preserved for a period of 16 years.

(ii) Under section 44AA(2), persons carrying on profession [not being a profession referred to in (i) above] or business are required to maintain books of account and documents if their annual income from the profession or business exceeds Rs. 1,20,000 or the gross receipts or turnover exceeds Rs. 10,00,000 in any one of the three years immediately preceding the previous year. In the case of newly set up profession or business, such books have to be maintained if the income from profession or business is likely to exceed Rs. 1,20,000 or the gross receipts or turnover is likely to exceed Rs. 10,00,000 during the previous year in which the profession or business is set up.

A person carrying on the business referred to in section 44AD or 44AE or 44AF [or 44BB or 44BBB (from assessment year 2004-05 and onwards)] will also have to maintain the books of account if he claims that his profit/income of a previous year is *less* than the deemed profit/income under those sections, irrespective of monetary limit of turnover/receipts, of that previous year.

For failure to keep, maintain or retain books of accounts, etc., penalty is leviable u/s. 271A [For details, refer page 204].

Method of accounting:

[Section 145]

Income chargeable under the head 'Profits and gains of business or profession' or 'Income from other sources' has to be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee [mixed or hybrid method which has both the aforesaid methods of accounting is not permissible from uniform accounting year commencing on 1-4-1996 and subsequent years]. The Central Government may notify[28] from time to time accounting standards to be followed by any class of assessee or in respect of any class of income. Where the Assessing Officer (AO) is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting is different from cash or mercantile system or where the notified accounting standards, have not been regularly followed by the assessee, the AO may make a best judgment assessment u/s. 144.

Method of accounting in certain cases:

[Section 145A]

Upto assessment year 1998-99, Income-tax Act did not prescribe any specific mode of stock valuation. As such, assessees were following the method regularly employed by them for this purpose. W.e.f. 1-4-1999, section 145A provides that the tax, duty, cess or fee (like excise and custom) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation should be included in the value of stock in the purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession". *Explanation* to section 145A provides that such levies should be included notwithstanding any right arising as a consequence to such payment. For instance, the modvat credit, if any, will not be deductible from such value.

Compulsory audit of accounts of certain persons carrying on business or profession:

[Section 44AB[29]]

This section makes it obligatory for a person carrying on business to get his accounts audited before the "specified date" by an accountant [as defined in the *Explanation* to section 288(2)] if his total sales, turnover or gross receipts in business exceeds Rs. 40,00,000 in any previous year. Likewise, a person carrying on profession will also have to get his accounts audited before the "specified date" if his gross receipts in profession exceed Rs. 10,00,000. A person carrying on the business referred to in section 44AD or 44AE or 44AF [or 44BB or 44BBB (from assessment year 2004-05 and onwards)] will also have to get the accounts audited before the "specified date" if he claims that his profit/income of a previous year is *less* than the deemed profit/income under those sections, irrespective of the monetary limit of turnover/gross receipts, of that previous year.

Such persons will also be required to furnish audit report in the prescribed Form No. 3CB by the "specified date".

However, where the income of an assessee is chargeable to tax on presumptive basis under sections 44B or 44BBA [or 44BB or 44BBB, upto assessment year 2003-04], such an assessee is not required to get his accounts audited u/s. 44AB.

In cases where the accounts are required to be audited by or under any other law (as in the case of companies and co-operative societies), it will suffice if the accounts are audited under such other law before the "specified date" and the assessee furnishes by the said date the report of the audit under such other law and also a further report by an accountant in the prescribed Form No. 3CA.

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28. The Central Government has notified the "Accounting standards to be followed by all assessees following mercantile system of accounting" [Vide Notification No. 69(E), dt. 25-1-1996]. For the text of the said notification, refer page 132 of ITRR 1998-99 (60th Year of Publication).

29. An assessee opting for assessment of his business income on presumptive basis under sections 44AD, 44AE and 44AF [Refer pp. 133-134] is not required to get his accounts audited u/s. 44AB in relation to such business income [Vide sections 44AD(4), 44AE(5) and 44AF(4)]. However, such an assessee should comply with requirements of section 44AB in respect of business which is not covered by the provisions of sections 44AD, 44AE and 44AF.

If the return of income is filed by the "due date" of furnishing the return of income, the return of income should be accompanied by the said audit report under section 44AB. Where the return of income is filed after the 'due date' of furnishing the return, assessee should file a copy of the said audit report and proof of its filing by the "specified date" along with such delayed return of income. Where a copy of the audit report u/s. 44AB and/or proof of filing thereof by the 'specified date' is not filed along with the return/delayed return[30], it will be treated as a defective return u/s. 139(9). Penalty u/s. 271B also will be leviable for failure to get the accounts audited u/s. 44AB and/or not furnishing the said report by the "specified date".

"Specified date" for companies and all other assessees is 31st October.

For failure to comply with the provisions of section 44AB, without reasonable cause, an assessee will be liable to a penalty under section 271B equal to $^1/_2$% of the total sales, turnover or gross receipts, as the case may be, in the business, or of the gross receipts in the profession, in the relevant previous year, subject to a maximum penalty of Rs. 1,00,000.

Note: The Central Board of Direct Taxes has clarified vide Circular No. 452, dt. March 17, 1986 [Refer 158 ITR (St.) 195] that, "as far as Kachha arahtias[31] are concerned turnover does not include the sale effected on behalf of the principals and only the gross commission has to be considered for the purposes of section 44AB.".

30. The due date for filing of tax audit report u/s. 44AB, in relation to assessment year 2003-04, is extended from 31-10-2003 to 30-11-2003 [Vide Notification dt. 16-10-2003/20-10-2003 (F. No. 220/3/2003/ITA-II): 264 ITR (St.) 10-11].

31. In the case of agents whose position is similar to that of Kachha arahtias, the turnover is only the commission and does not include sales on behalf of the principal.

CAPITAL GAINS

[From assessment year 2001-02 and onwards]

(Sections 45 to 55A)

Capital gains means any profits or gains arising from the transfer of a capital asset effected in the previous year.

1. Definitions:

(a) CAPITAL ASSET:

[Section 2(14)]

The term "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include, *inter alia:*

(1) stock-in-trade, consumable stores or raw materials held for purposes of business or profession,

(2) personal effects such as wearing apparel (but excluding jewellery), furniture, motor car, airconditioner, refrigerator, etc.; held for personal use by the assessee or by any member of his family dependent on him,

(3) 6½% Gold Bonds, 1977,

(4) 7% Gold Bonds, 1980,

(5) National Defence Gold Bonds, 1980,

(6) Special Bearer Bonds, 1991,

(7) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government [240 ITR (St.) 1]; and

(8) agricultural land in India, not being land which is situated within the local limits of any municipality, notified area committee, town committee or a cantonment board and which has a population of not less than ten thousand or which is situated in any area upto a distance of 8 kilometres from such limits or up to such distance from such limits as specified in Notification No. 10(E), dt. 6-1-1994 [Refer 205 ITR (St.) 121]. For amendment of Notification No. 10(E), refer Notification No. 1302, dt. 28-12-99 [Refer 248 ITR (St.) 258].

Note: Provisions of the Income tax Act shall not apply to any long-term capital gains arising to the initial subscriber on transfer of Gold Bonds, 1998 [Vide section 5(a)(ii) of the Gold Bonds (Immunities and Exemptions) Act, 1993. Refer page 300 of ITRR 1993-94 (55th Year of Publication)].

The term "capital asset" includes "Jewellery" held for personal use which will include:

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel; and

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel [*Explanation* to section 2(14)(ii)].

(b) FAIR MARKET VALUE:

[Section 2(22B)]

"Fair market value", in relation to a capital asset, means—

(i) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and

(ii) where the price referred to in (i) is not ascertainable, such price as may be determined in accordance with the rules made under Income-tax Act.

(c) SHORT-TERM AND LONG-TERM CAPITAL ASSET:

[Section 2(42A)]

Capital asset is divided as short-term or long-term with reference to the period of holding of the asset by the assessee or by the previous owner and the assessee under certain circumstances. The period of holding of the asset is computed from the date of acquisition to the date immediately preceding its transfer. The periods specified are as under:

Nature of asset	Short-term capital asset	Long-term capital asset
(1) For assets being shares in a company or any other security[1] listed in a recognised stock exchange in India or a unit of the UTI/Administrator of the specified undertaking/Specified company or a unit of a Mutual Fund specified u/s. 10(23D)	held for *not more* than 12 months	held for *more* than 12 months
(2) For assets other than assets specified in (1) above	held for *not more* than 36 months	held for *more* than 36 months.

1. The expression "securities" will have the meaning assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956. As per section 2(h) of the said Act, "securities" include shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate; Government securities; such other instruments as may be declared by the Central Government to be securities; and rights or interest in securities.

NOTES:

(1) For determination of date of transfer of shares or units or other securities (briefly referred to as 'shares') listed in a recognised stock exchange in India and also the holding period to be reckoned u/s. 2 (42A), the Board [Vide Circular No. 704, dt. 28-4-1995: 213 ITR (St. 7)] have clarified as follows:

(a) When the shares are transferred through stock exchanges–

(i) in the case of sellers of shares, it is the date of broker's note which is the date of transfer, provided such transactions are followed up by delivery of shares, and the transfer deeds;

(ii) similarly, in respect of purchasers of shares the holding period shall be reckoned from the date of the broker's note for purchase on behalf of the purchasers.

(b) When the shares are transferred directly between the parties and not through stock exchanges–

the date of contract of sale as declared by the parties shall be treated as the date of transfer provided it is followed up by actual delivery of shares and the transfer deeds.

(c) Where the shares are acquired in several lots at different time and sale could not be corelated through specific number of scrips–

the first-in-first out (FIFO) method shall be adopted to reckon the period of holding of shares. In other words, the shares acquired last will be taken as remaining with the assessee, while the shares acquired first will be treated as sold.

Indexation, wherever applicable, for long-term assets will be regulated on the basis of holding period determined in this manner.

In respect of securities held in dematerialised form, refer Circular No. 768. For gist of the Circular, refer item G.2.E on page 324.

(2) Under *Explanation* 1 to section 2(42A)[2], the period for which any capital asset is held by the assessee is to be determined as under:

(a) in the case of a share held in a company in liquidation, the period subsequent to the date on which the company goes into liquidation is to be excluded;

(b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in section 49(1), the period for which the asset was held by the previous owner referred to in the said section is to be included;

(c) in the case of a capital asset being shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in section 47(vii) [refer sub-item (g) of item (3) on page 143], the period for which the shares in the amalgamating company were held by the assessee is to be included;

(d) in the case of a capital asset, being a share or any other security (hereafter referred to as the 'financial asset') subscribed to by the assessee on the basis of his right to subscribe to such financial asset (i.e., right offer) or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period of holding will be reckoned from the date of allotment of such financial asset. If such right to subscribe is renounced by the assessee in favour of any other person, the period of holding in the case of the assessee (i.e., renouncer) will be reckoned from the date of the offer of such right by the company/institution making such offer to the date of renouncement;

(e) in the case of a capital asset, being a financial asset, allotted without any payment (i.e., bonus issue) and on the basis of holding of any other financial asset, the period of holding of such bonus issue will be reckoned from the date of the allotment of such issue;

(f) from assessment year 2004-05 and onwards, in the case of a capital asset, being: (1) trading or clearing rights of a recognised stock exchange in India acquired by a person; or (2) equity share(s) in a company allotted, pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in section 47(xiii), the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation is to be included;

(g) in respect of capital asset other than those mentioned in (a) to (f) above, the period for which any capital asset is held by the assessee will be determined subject to any rules to be framed by the Board.

(d) TRANSFER:

[Section 2(47)]

"Transfer", in relation to a capital asset, includes the sale, exchange[3] or relinquishment of the asset or the extinguishment of any rights therein or the compulsory acquisition thereof under any law or in a case where the

2. For the notes on provision relating to 'Demerger of companies', refer item (A) on pp. 151-152.

3. Transaction of lending of shares or any other securities under the 'Securities Lending Scheme, 1997' would not result in "transfer", provided the shares/securities lent and received back are of the same company/institution. The distinctive numbers of such shares/securities received back may, however, be different [Vide Circular No. 751, dt. 10-2-96: 224 ITR (St.)1].

asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment.

Transfer includes:

(a) possession of immovable property given without registration of conveyance deed; and

(b) transactions in agreements to buy or sell any immovable property or any rights thereon.

Transfer of movable property is complete when delivery of possession is complete. Transfer of immovable property, normally, is complete only when the conveyance deed is registered. However, for the purposes of capital gains, the transfer is treated as a complete with delivery of possession and when agreement to sell/buy immovable property is entered into or when such agreement is itself a subject matter of transaction.

2. Charge of capital gain:

[Sections 45, 46(2), 46A & 47A]

Capital gain is chargeable as income of the previous year in which transfer took place [Section 45(1)].

Capital gain is chargeable on the following transactions also:

(a) Profits and gains arising from the receipt of any money or other assets from an insurance company on account of destruction of, or damage to, any capital asset as a result of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or riot or civil disturbance; or accidental fire/explosion; or war, shall be deemed to be capital gains of the previous year in which such money or other assets was received. For the purposes of section 48 (i.e., mode of computation), money received or the fair market value of the assets on the date of such receipt shall be deemed to be the full value of consideration received or accruing as a result of such transfer [Section 45(1A)].

(b) In a case where a capital asset is converted by the owner into or is treated by him as stock-in-trade of a business carried on by him, such conversion or treatment will be treated as "transfer" under section 2(47). Section 45(2) provides that for the purposes of computing "capital gains" in the case of conversion of capital asset into stock-in-trade, the fair market value of the capital asset on the date on which it was converted, will be deemed to be the full value of the consideration received on the transfer. The year of taxability will, however, be the year in which such converted stock-in-trade is sold or otherwise transferred. Thus, in the year of sale of such stock-in-trade, there will be capital gains & business income as under:

(i) *Capital gains:* on the difference between the cost of acquisition and the fair market value on the date of conversion (Cost of acquisition is to be increased by Cost Inflation Index), and

(ii) *Business income:* on the difference between the sale proceeds and the said fair market value.

Illustration 1: Mr. Shah had purchased a piece of land in May, 1981 for Rs. 1,00,000. On 1-5-2002, he started business in real estate and treated the land as stock-in-trade of that business adopting its value as on that date at Rs. 8,00,000. The fair market value of the land on 1-5-2002 was Rs. 5,00,000. On 1-3-2004 he sells the land for Rs. 17,00,000 to a builder. His capital gain and business income for assessment years 2003-04 and 2004-05 will be:

Assessment year 2003-04:

Capital gain	Rs. Nil[4]

Assessment year 2004-05:

(i) *Capital gain:* On land on conversion from capital asset to stock-in-trade:		
Fair market value on 1-5-2002, being the date of conversion		Rs. 5,00,000
Less: Cost of acquisition in May, 1981	Rs. 1,00,000	
Indexed cost of acquisition [vide 2nd proviso to section 48]: Cost of acquisition × Cost Inflation Index of the year in which asset is sold ÷ Cost Inflation Index of the year of acquisition, i.e., Rs. 1,00,000 × 463[5] ÷ 100[5]		Rs. 4,63,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]		Rs. 37,000
(ii) *Business income:* On sale of land:		
Sale proceeds		Rs. 17,00,000
Less: Cost of acquisition being fair market value on the date of conversion (i.e., 1-5-2002)		Rs. 5,00,000
Business income		Rs. 12,00,000
Thus, the aggregate of long-term capital gain & business income for the asstt. year 2004-05 will be		Rs. 12,37,000

4. In assessment year 2003-04, in which the capital asset was converted into stock-in-trade, there will be no capital gain. This will arise in the year when the land is actually sold, that is in assessment year 2004-05.

5. For notification on Cost Inflation Index, refer page 145/cover page 3.

Illustration 2: In the *Illustration 1 on page 140*, suppose Mr. Shah had started his business on 30-4-1983 and converted the land as stock-in-trade on that date at Rs. 8,00,000, then, business income in his case will be as under:

Assessment years 1984-85 to 2004-05:

Capital gain in respect of conversion of land as stock-in-trade of the business	Rs. Nil[6]

Assessment year 2004-05:

Business income:	
Sale proceeds	Rs. 17,00,000
Less: Value adopted by Mr. Shah on conversion of land into stock-in-trade on 30-4-1983	Rs. 8,00,000
Business income . .	Rs. 9,00,000

(c) Where any person has had at any time during the previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (1) of section 10 of the Depositories Act, 1996, and for the purposes of section 48 and the proviso to section 2(42A), the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first out method[7]. The expressions "beneficial owner", "depository" and "security" shall have the meanings respectively assigned to them in clauses (a), (e) and (l) of sub-section (1) of section 2 of the Depositories Act, 1996 [Section 45(2A) inserted by section 30 read with Part IV of the Schedule to the Depositories Act, 1996: 221 ITR (St.) 1-11-15].

(d) The profits and gains arising from the transfer of a capital asset by a partner/member to a firm/association of persons/body of individuals (by way of capital contribution or otherwise) will be chargeable to tax as his income under the head "Capital gains" of the previous year in which such transfer takes place. For this purpose the amount recorded in the books of account of firm/AOP/BOI will be taken to be the sale consideration and the capital gains will be computed accordingly [Section 45(3)].

(e) The profits and gains arising from the transfer of a capital asset by way of distribution of capital assets to its partners/members on the dissolution of a firm/association of persons/body of individuals or otherwise, will be chargeable to tax as income of the firm/AOP/BOI under the head "Capital gains" of the previous year in which the said transfer takes place. For this purpose, the fair market value of the asset on the date of such transfer will be taken to be the sale consideration and the capital gains will be computed accordingly [Section 45(4)].

(f) In the case of transfer by way of compulsory acquisition under any law, the capital gains computed with reference to the compensation initially awarded shall be deemed to be the capital gains of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received. Any enhanced compensation awarded by any court, tribunal or other authority, will be charged to tax as capital gains of the previous year in which such amount is received, the cost of acquisition and cost of improvement for the purpose of enhanced compensation will be taken to be 'nil'. If the enhanced compensation is received by a person other than the original transferor or by reason of the death of the original transferor or for any other reason, capital gains will be charged in the hands of the recipient. From assessment year 2004-05 and onwards, if the initial compensation/enhanced compensation is subsequently reduced by any court, tribunal or other authority, the capital gains assessed in the year of receipt of initial compensation/enhanced compensation will be amended to re-compute capital gains with reference to such reduced compensation. The said amendment has to be made by the Assessing Officer within four years from the end of the previous year in which the order reducing the initial compensation/enhanced compensation was passed by the court, tribunal or other authority [Section 45(5) read with section 155(16)].

(g) Any money or other assets received by a shareholder from a company on its liquidation is chargeable to tax under the head "Capital gains" in his hands. Full value of consideration received in such a case will be the money so received or the fair market value of the assets on the date of distribution, as reduced by the amount deemed as dividend u/s. 2(22)(c). The cost of acquisition of the asset will be the cost for which the previous owner, namely, the company acquired it, as increased by cost of any improvement of asset, if any, incurred by the previous owner or the shareholder, as the case may be [Section 46(2) & 49(1)].

(h) Transfer of a capital asset by a company to its subsidiary company and *vice versa*, provided the transferee is an Indian company and the entire share capital of the subsidiary company is held by the parent company or its nominees, will not be chargeable to capital gains under section 47(iv) & (v).

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6. This is because, the year of conversion (assessment year 1984-85) is earlier to assessment year 1985-86 from which assessment year the provisions of amended section 2(47) and sub-section (2) to section 45 come into effect. Thus, there will be no capital gain on the difference between cost of acquisition and the value adopted in the books of account on conversion of land as stock-in-trade.

7. For gist of Circular No. 768, dt. 24-6-1998, refer item G.2.E on page 324.

However, such a transaction will be chargeable to capital gains under section 47A(1), if—

(i) the transferee company converts the capital asset into stock-in-trade of its business within a period of 8 years from the date of transfer between the two companies; or

(ii) the parent company or its nominees or the holding company, as the case may be, ceases to hold the entire share capital of the subsidiary company at any time within a period of 8 years from the date of transfer between the two companies.

(i) Capital gain on transfer of goodwill: The gain arising from transfer of goodwill of a business is chargeable to tax as capital gain. In a case where the goodwill was purchased by the assessee, the purchase price will be taken as cost of acquisition. In any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil'. Cost of improvement also will be 'nil' [Section 55(2)(a) read with section 55(1)(b)(1)].

(j) Capital gain on transfer of a trade mark or brand name associated with a business: From assessment year 2002-03 and onwards, the gain arising from transfer of a trademark or brand name associated with a business is chargeable to tax as capital gain. In a case where assets were purchased by the assessee, the purchase price will be taken as cost of acquisition. In any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil' [Amended section 55(2)(a)].

(k) Capital gain on transfer of tenancy rights, stage carriage permits or loom hours: The gain arising from transfer of tenancy rights, stage carriage permits (i.e., route permits) or loom hours is chargeable to tax as capital gain. In a case where such assets were purchased by the assessee, the purchase price will be taken as cost of acquisition. In any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil' [Section 55(2)(a)].

(l) Capital gain on transfer of a right to manufacture, produce or process any article or thing: The gain arising from the transfer of a right to manufacture, produce or process any article or thing (like patent right) is chargeable to tax as capital gain. In a case where such right was purchased by the assessee, the purchase price will be taken as cost of acquisition. In any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil'. Cost of improvement also will be 'nil' [Section 55(2)(a) read with section 55(1)(b)(1)].

(m) Capital gain on transfer of right to carry on any business: From assessment year 2003-04 and onwards, the gain arising from the transfer of right to carry on any business is chargeable to tax as capital gain. In a case where such right was purchased by the assessee, the purchase price will be taken as cost of acquision. In any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil'. Cost of improvement also will be 'nil' [Amended section 55(2)(a) read with section 55(1)(b)(1)].

(n) The gain arising on transfer of capital asset including intangible asset by a firm/sole proprietory concern to a company is not chargeable to capital gains u/s. 47(xiii)/47(xiv) if the firm/sole proprietory concern is succeeded by a company in a business carried on by it and the conditions prescribed in the proviso to section 47(xiii)/47(xiv) are complied with [For details, refer sub-item (m) on page 143].

If the conditions specified in the proviso to section 47(xiii)/47(xiv) are not complied with by the firm/sole proprietory concern, the amount of profits and gains arising from the transfer of such capital asset/intangible asset not charged to tax u/s. 45 by virtue of conditions specified in the proviso to section 47(xiii)/47(xiv) shall be deemed to be *taxable profit of the successor company* in the previous year in which the requirements of the said proviso are not complied with [Section 47A(3)].

(o) Capital gain on repurchase of units referred to in section 80CCB(2): The difference between the repurchase price of units referred to in section 80CCB(2) [i.e., Equity Linked Savings Scheme] and capital value of such units [i.e., amount invested in such units] shall be chargeable to tax under the head "Capital gains" of the previous year in which such repurchase takes place or the plan referred to in section 80CCB is terminated [Section 45(6)].

(p) Buy back of shares: In the year of purchase by the company of its own shares/specified securities, the difference between the cost of acquisition [i.e., indexed cost u/s. 48] and the value of consideration received will be deemed to be capital gains arising to shareholder/holder of securities. "Specified securities" shall have the meaning assigned to it in the *Explanation* to section 77A of the Companies Act, 1956. It may be noted that such buy back of shares will not be considered as deemed dividend u/s. 2(22)(iv) [Section 46A].

3. Transactions not regarded as transfer: [Sections 46(1) & 47[8]]

The following transactions are not considered as a transfer of capital assets and capital gains, if any, which arise from such transactions are totally exempt from tax:

(a) Distribution of the assets by a company to its shareholders on its liquidation. *Refer section 46(1).*

(b) Distribution of capital assets on the total or partial partition of a Hindu undivided family. *Refer section 47(i).*

8. For the notes on provisions relating to 'Demerger of companies' refer item (B) on pp. 151-152.

(c) Any transfer of a capital asset under a gift or will or an irrevocable trust. *Refer section 47(iii).*

However, from assessment year 2001-02 and onwards, transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf, will be regarded as transfer and chargeable as capital gains. *Refer proviso to section 47(iii).*

(d) Any transfer of a capital asset by a company to its subsidiary company and *vice versa* provided the transferee is an Indian company and the entire share capital of the subsidiary company is held by the parent company or its nominees. *Refer section 47(iv) & (v).*

Under proviso to section 47(v), the provisions of clauses (iv) and (v) of section 47 will not apply to the transfer of a capital asset made after 29-2-1988 where the transferee company takes over the capital asset as stock-in-trade at the time of transfer itself. In view of this proviso, capital gain will be chargeable in such cases. It may be noted that if the transferee company converts the capital asset after the transfer as stock-in-trade, capital gain will be chargeable u/s. 47A(1) as explained in item 2(h) on pp. 141.

(e) Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company. *Refer section 47(vi).*

(f) Any transfer, in a scheme of amalgamation, of a capital asset being share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if:—

(1) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

(2) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated. *Refer section 47(via).*

(g) Any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if:—

(1) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company, and

(2) the amalgamated company is an Indian company. *Refer section 47(vii).*

(h) Any transfer of a capital asset, being bonds or Global Depository Receipts[9] referred to in section 115AC(1), made outside India by a non-resident to another non-resident. *Refer section 47(viia).*

(i) Any transfer of agricultural land in India before 1-3-1970. *Refer section 47(viii).*

(j) Any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, etc., to the Government or a University or the National Museum, National Art Gallery, National Archives or any notified public museum or institution. *Refer section 47(ix).*

(k) Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company. *Refer section 47(x).*

(l) Any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned u/s. 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) subject to condition that: (1) the transferor i.e., sick industrial company is managed by the workers' co-operative; and (2) the transfer of land is made during the period commencing from the previous year in which the said company was declared as sick industrial company u/s. 17(1) of SICA and ending with the previous year during which the entire 'net worth' of such company equals to or exceeds the accumulated losses. The 'net worth' for this purpose will be computed in accordance with section 3(1)(ga) of SICA. *Refer section 47(xii).*

(m) Any transfer of capital asset including intangible asset by a firm/sole proprietory concern to a company in the following cases—

(1) where a firm is succeeded by a company in the business carried on by it as a result of which firm sells/transfers its capital assets including intangible assets to the company, subject to the conditions prescribed hereafter. *Refer section 47(xiii);*

(2) where a sole proprietory concern is succeeded by a company in the business carried on by it as a result of which the sole proprietory concern sells/transfers its capital assets including intangible assets to the company, subject to the conditions prescribed hereafter. *Refer section 47(xiv).*

The conditions prescribed under proviso to section 47(xiii)/47(xiv) are—

(i) all the assets and liabilities of the firm/sole proprietory concern relating to the business immediately before the succession become the assets and liabilities of the company;

9. For the words "Global Depository Receipts", read "shares" in relation to assessment year 2001-02 and earlier years.

(ii) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession. The aggregate of the shareholding in the company of the partners of the firm is not less than 50% of the total voting power in the company and they continue to hold the same for a period of 5 years from the date of succession. As for the sole proprietor, he should become shareholder holding not less than 50% of the total voting power in the company and continue to hold the same for a period of 5 years from the date of succession;

(iii) neither partners of the firm nor the sole proprietor should receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company.

Section 47A(3) provides that where any of the condition stated above are not complied with by the firm/sole proprietor, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged u/s. 45 by virtue of conditions as stated in (i) to (iii) above, shall be deemed to be *taxable profit of the successor company* in the previous year in which the requirements as stated in (i) to (iii) above, are not complied with.

(n) From assessment year 2002-03 and onwards, any transfer of a capital asset to a company in the course of demutualisation or corporatisation[10] of a recognised stock exchange in India as a result of which an association of persons (AOP)/body of individuals (BOI) is succeeded by such company subject to conditions that:

(1) all the assets and liabilities of AOP/BOI relating to the business immediately before the succession become the assets and liabilities of the company; and

(2) the demutualisation or corporatisation[10] of a recognised stock exchange in India is carried out in accordance with a scheme for demutualisation or corporatisation[10] approved by the Securities and Exchange Board of India [Amended section 47(xiii)].

If the above conditions are not complied with by the AOP/BOI, the amount of profits or gains arising from the transfer of such capital asset not charged u/s. 45 by virtue of above conditions, shall be deemed to be *taxable profits of the successor company* in the previous year in which such conditions are not complied with [Section 47A(3)].

(o) From assessment year 2004-05 and onwards, where a member of a recognised stock exchange in India transfers his membership right, for acquisition of shares and trading or clearing rights acquired by him in the said stock exchange, in accordance with a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India. *Refer section 47(xiiia).*

(p) Any transfer in a scheme for lending of any securities by an assessee to a borrower under an agreement or arrangement, which is in conformity with the conditions prescribed therefor by the Securities and Exchange Board of India/Reserve Bank of India (from assessment year 2003-04 and onwards). *Refer section 47(xv).*

4. Mode of computation and deductions: (Sections 48[10a], 49, 51 & 55)

Section 48 provides that, from the full value of consideration received or accruing as a result of the transfer of capital asset, the following amounts should be deducted to arrive at the amount of capital gains:

(i) the cost of acquisition of the capital asset;

(ii) the expenditure incurred on any improvement to the capital asset;

(iii) expenditure incurred wholly and exclusively in connection with the transfer of the capital asset, such as stamp duty, registration charges, legal fees, brokerage, etc.

Under 2nd proviso to section 48, the cost of acquisition of a long-term *(and not short-term)* capital asset and cost of any improvement thereto is to be worked out as under:

(a) Cost of acquisition × Cost Inflation Index of the year in which the asset is transferred ÷ Cost Inflation Index of the year of acquisition or the year beginning on 1-4-1981, whichever is later;

(b) Cost of improvement × Cost Inflation Index of the year in which the asset is transferred ÷ Cost Inflation Index of the year of improvement to the asset.

The "Cost Inflation Index" will be notified by the Central Government for every year starting from financial year 1981-82 [vide clause (v) of the *Explanation* to section 48]. Accordingly, the Central Government has notified "Cost Inflation Index" for the financial years 1981-82 to 2004-05 vide Notification No. S.O. 709(E), dt. 20-8-1998 [233 ITR (St.) 29] read with Notification No. S.O. 773(E), dt. 20-9-1999, No. S.O. 586(E),

10. For the words "demutualisation or corporatisation", read ''corporatisation'' in relation to assessment year 2003-04 and earlier years.

10a. For the notes on amendment made in section 48 by the Finance (No. 2) Act, 2004, refer para 6.4 on page 47.

dt. 21-6-2000, No. S.O. 510(E), dt. 11-6-2001, No. S.O. 647(E), dt. 19-6-2002, No. S.O. 844 E, dt. 24-7-2003 [262 ITR (St.) 28] & No. 742(E), dt. 29-6-2004 [268 ITR (St.) 207]. The text of the said notifications are as under:

NOTIFICATIONS ON COST INFLATION INDEX

In exercise of the powers conferred by clause (v) of the *Explanation* to section 48 of the Income-tax Act, 1961, the Central Government, having regard to seventy-five per cent. of the average rise in the Consumer Price Index for urban non-manual employees, hereby specifies the Cost Inflation Index as mentioned in column (3) of the Table below for the Financial Year (including the financial year 2004-05) mentioned in the corresponding entry in column (2) of the said Table.

Table

S.No.	Financial Year	Cost Inflation Index	S.No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)	(1)	(2)	(3)
1.	1981-82	100	13.	1993-94	244
2.	1982-83	109	14.	1994-95	259
3.	1983-84	116	15.	1995-96	281
4.	1984-85	125	16.	1996-97	305
5.	1985-86	133	17.	1997-98	331
6.	1986-87	140	18.	1998-99	351
7.	1987-88	150	19.	1999-2000	389
8.	1988-89	161	20.	2000-01	406
9.	1989-90	172	21.	2001-02	426
10.	1990-91	182	22.	2002-03	447
11.	1991-92	199	**23.**	**2003-04**	**463**
12.	1992-93	223	*24.*	*2004-05*	*480*

The cost of acquisition and/or cost of improvement as adjusted above and the expenses on transfer (i.e., legal fees, brokerage, etc.) will be deducted from the full value of consideration. The resultant figure will be long-term capital gains chargeable to tax under section 112 [Refer item 7 on page 162].

Illustration: Mr. A purchased 1,000 square yards of land at Rs. 100 per square yard in 1970 and sold the same at Rs. 750 per square yard in December, 2003. The fair market value of the said plot of land as on 1-4-1981 was Rs. 150 per square yard. Expenditure incurred in connection with the sale on account of brokerage, etc. is Rs. 20,000. The long-term capital gain for assessment year 2004-05 is to be computed as under:

Sale price of 1,000 square yards @ Rs. 750 per square yard			Rs. 7,50,000
Less: (1) Cost of acquisition in 1970: 1,000 Sq. yds. @ Rs. 100 per Sq. yd. . .	Rs. 1,00,000		
Fair market value as on 1-4-1981: 1,000 Sq. yds. @ Rs. 150 per Sq. yd. . .	Rs. 1,50,000		
Indexed cost of acquisition [Vide 2nd proviso to section 48]: Rs. 1,50,000 (being F.M.V. as on 1-4-1981) × 463[11] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 100[11] (being Cost Inflation Index of the financial year 1981-82)	Rs. 6,94,500		
(2) Expenditure in connection with the sale	Rs. 20,000	Rs. 7,14,500	
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]			Rs. 35,500

NOTES:

(1) The 1st proviso to section 48 provides a separate method of computation of capital gain (whether short-term or long-term) arising from the transfer of capital asset being shares in, or debentures of, an Indian company held by non-resident Indian/non-resident. For further details, refer sub-item (c) of item (vii) on page 54.

(2) The provisions of adjusted cost as stated above will not apply to short-term capital gain in the case of all assessees and also will not apply to long-term capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in 1st proviso to section 48.

(3) The 3rd proviso to section 48, provides that long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government, the cost of acquisition and cost of improvement will not be indexed. As a result, while computing the long-term

11. For notification on Cost Inflation Index, refer above Table.

capital gain/loss on transfer of bond/debenture other than capital indexed bonds issued by the Government, *only the actual cost of acquisition/improvement* is to be taken into account. This provision will apply to transfer of said bond/debenture effected on or after 1-4-1997. The cost of acquisition/improvement of capital indexed bonds issued by the Government is, however, to be indexed.

(4) The 4th proviso to section 48, w.e.f. 1-4-2001 (assessment year 2001-02 and onwards), provides that where shares, debentures or warrants referred to in the proviso to section 47(iii) are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of section 48.

COST OF ACQUISITION AND COST OF IMPROVEMENT
(Sections 49[12], 51 & 55)

Where any capital asset was negotiated for transfer on any previous occasion and as a result thereof, if any advance money is received and retained, the cost of the asset is to be reduced to the extent of advance money so received or retained in computing the cost of acquisition. *Refer section 51.*

EXAMPLE (i) Mr. A negotiated with Mr. B to transfer his immovable property (other than residential house) and received Rs. 15,000 as an earnest money in 1987. Mr. B failed to pay the stipulated price fixed for the property on the due date. The amount of Rs. 15,000 was forfeited and retained by Mr. A. Mr. A sold the said property to Mr. C in June, 2003 for Rs. 5,00,000. The cost of the property purchased in April, 1984 was Rs. 1,40,000. **The long-term capital gain for assessment year 2004-05** is to be worked out as under:

Sale price of the property			Rs. 5,00,000
Less: Cost of acquisition: Property purchased in April, 1984	Rs. 1,40,000		
Less: Earnest money retained	Rs. 15,000		
	Rs. 1,25,000		
Indexed cost of acquisition [Vide 2nd proviso to section 48]: Rs. 1,25,000 (and not Rs. 1,40,000) × 463[13] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 125[13] (being Cost Inflation Index of the financial year of acquisition i.e., 1984-85)			Rs. 4,63,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]			Rs. 37,000

Where the capital asset became the property of the assessee before 1-4-1981, he has the option of substituting the fair market value as on 1-4-1981 in place of the original cost. *Refer section 55(2)(b)(i).*

Further, the fair market value as on 1-4-1981 is to be increased by any expenditure of a capital nature for additions or alterations made on or after that date. *Refer sections 48 & 55(1)(b)(2).*

EXAMPLE (ii) Mr. A purchased 10,000 square yards of land at 1 Rupee per square yard in 1963 and sold the same at Rs. 105 per square yard in December, 2003. The fair market value of the said plot of land as on 1-4-1981 was Rs. 15 per square yard. Cost of improvement incurred during financial year 1981-82 was Rs. 50,000. The long-term capital gain **for assessment year 2004-05** is to be worked out as under:

Sale price of 10,000 Sq. yds. @ Rs. 105 per Sq. yd.			Rs. 10,50,000
Less: Cost of acquisition in 1963: 10,000 Sq. yds. × Re. 1 per Sq. yd.	Rs. 10,000		
Fair Market value as on 1-4-1981: 10,000 Sq. yds. @ Rs. 15 per Sq. yd.	Rs. 1,50,000		
Add: Cost of improvement incurred during financial year 1981-82	Rs. 50,000		
	Rs. 2,00,000		
Indexed cost of acquisition [Vide 2nd proviso to section 48]: Rs. 2,00,000 [Rs. 1,50,000, being F.M.V. as on 1-4-1981 + Rs. 50,000, being cost of improvement during financial year 1981-82] ×463[13] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 100[13] (being Cost Inflation Index of the financial year 1981-82).			Rs. 9,26,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]			Rs. 1,24,000

Note: For equity share quotation as on 1-4-1981, for the purposes of substituting fair market value in respect of computation of "capital gains" in relation to assessment year 1993-94 and onwards, refer pp. 170-177.

12. For the notes on provisions relating to 'Demerger of companies', refer item (C) on pp. 151-152.
13. For notification on Cost Inflation Index, refer page 145/cover page 3.

Where the capital asset became the property of the assessee by any of the modes specified in section 49(1), the cost of acquisition of the asset shall be deemed to be the cost for which the "previous owner of the property" acquired it, as increased by the cost of any improvement of the asset incurred or borne by the previous owner or the assessee, as the case may be. However, if the cost for which the previous owner acquired the property cannot be ascertained, the fair market value on the date on which the capital asset became the property of the previous owner will be taken as such cost of acquisition [Section 55(3)].

Incidentally, for determining whether the capital asset is long-term or short-term [refer Note (2)(b) on page 139] the period for which such previous owner held the asset will also be added to the period for which the assessee held it [Vide *Explanation* 1(i)(b) to section 2(42A)]. If the said previous owner acquired the asset before 1-4-1981, the assessee will have the option to substitute the fair market value as explained above [Vide section 55(2)(b)(ii)].

"Previous owner of the property" in relation to any capital asset owned by the assessee means the last previous owner who acquired it by a mode of acquisition other than those referred to in clauses (i) to (iv) of section 49(1) [*Explanation* to section 49(1)].

In the case of transfer of asset between holding and subsidiary companies, capital gain may arise to transferor company under section 47A [Vide item 2(h) on pp. 141-142 and item 3(d) on page 143]. If such capital gain is computed in the hands of transferor company, then for computing the capital gain in the hands of transferee company (when it sells the said asset), cost to the previous owner (i.e., transferor company) will not be taken into account. Instead, the cost at which the asset was transferred by the transferor company will be taken as the cost of acquisition of transferee company [Section 49 (3)].

COST OF ACQUISITION IN RESPECT OF GOODWILL, TRADE MARK, ETC.:

[Section 55(1)(b), 55(2)(a) and 55(2)(ab)]

Cost of acquisition of a capital asset being: (1) goodwill of a business; (2) a trade mark or brand name associated with a business (from assessment year 2002-03 & onwards); (3) a right to manufacture, produce or process any article or thing; (4) tenancy rights, stage carriage permits or loom hours; and (5) right to carry on any business (from assessment year 2003-04 & onwards), in a case where such asset is purchased by the assessee, the purchase price will be taken as cost of acquisition; and in any other case [not being a case falling u/s. 49(1)(i) to (iv)], cost of acquisition will be taken to be 'nil' [Section 55(2)(a)]. Cost of improvement will be 'nil' in respect of goodwill of a business, a right to manufacture, produce or process any article or thing and right to carry on any business [Section 55(1)(b)].

From assessment year 2002-03 and onwards, cost of acquisition of a capital asset, being equity share(s) allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation[14] approved by the Securities and Exchange Board of India, will be the cost of acquisition of his original membership of the exchange [Section 55(2)(ab)]. However, from assessment year 2004-05 and onwards, cost of acquisition will be taken to be 'nil' in respect of trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share(s) under the said scheme of demutualisation or corporatisation [Proviso to section 55(2)(ab)].

COST OF ACQUISITION IN RESPECT OF RIGHT ENTITLEMENT (i.e., RIGHT OFFER):

[Sections 2(42A) & 55(2)(aa)]

Under section 55(2)(aa), the cost of acquisition of right entitlement (i.e., right offer) in the hands of a shareholder/security holder and/or renouncee is to be arrived as under:

(1) *in the case of a shareholder/security holder:*

(a) where such right offer is not renounced and such person exercises his right to subscribe to the right offer, the cost of acquisition of right offer is the amount actually paid for acquiring such right [Vide section 55(2)(aa)(iii)]. In such a case, the period of holding shall be reckoned from the date of allotment of such shares/securities [Vide sub-clause (d) in clause (i) of the *Explanation* 1 to section 2(42A)]. However, cost of acquisition of original shares/securities, on the basis of which the shareholder/security holder becomes entitled to right offer, is the amount actually paid for acquiring the original shares/securities [Vide section 55(2)(aa)(i)],

(b) where such right offer is renounced by him in favour of renouncee, the cost of acquisition of such right renounced is to be taken at 'nil' [Vide section 55(2)(aa)(ii)]. Sale price realised in respect of such right renounced will be taken as capital gain. The period of holding in the hands of renouncer will be computed from the date of offer made by the company/institution to the date of renouncement

14. For the words "demutualisation or corporatisation", read "corporatisation" in relaltion to assessment year 2003-04 and earlier years.

[Vide sub-clause (e) in clause (i) of the *Explanation* 1 to section 2(42A)]. Generally, it will be a short-term capital gain;

(2) *in the case of renouncee in whose favour right offer is renounced*, the cost of acquisition will be the aggregate of the amount of purchase price paid to the renouncer to acquire the right entitlement and the amount paid by him to the company/institution for subscribing to such right offer of shares/securities [Vide section 55(2)(aa)(iv)]. The period of holding in the hands of the renouncee will be reckoned from the date of allotment of such shares/securities [Vide sub-clause (d) in clause (i) of the *Explanation* 1 to section 2(42A)].

Illustration: Mr. A is a shareholder holding 1,000 shares of Messrs. X & Co. Ltd., the cost of which is Rs. 20,000 (i.e., amount actually paid to acquire shares). M/s. X & Co. Ltd. has made a right offer in the ratio of 1:2 at the rate of Rs. 50 per share (i.e., Rs. 10 face value *plus* Rs. 40 premium, per share). Right issue opened on 2-7-2003 and closed on 31-7-2003. The date of allotment of right issue was 26-9-2003. The cost of acquisition is to be worked out as under:

(1) In a case where Mr. A subscribes to 500 right shares offered by M/s. X & Co. Ltd.:

(a) Cost of 500 right shares @ Rs. 50 per share [Vide section 55(2)(aa)(iii)] . . . . . Rs. 25,000

(b) Cost of 1,000 original shares [Vide section 55(2)(aa)(i)] . . . . . Rs. 20,000

(c) The period of holding of 500 right shares will reckon from 26-9-2003 (i.e., date of allotment) [Vide sub-clause (d) in clause (i) of the *Explanation* 1 to section 2(42A)].

(2) In a case where Mr. A renounces on 16-7-2003, his right to 500 right shares in favour of Mr. B at the price of Rs. 10/- per share:

(a) *Capital gain in respect of right renouncement in case of Mr. A would be the price realised and cost of right will be as under:*

500 right shares renounced @ Rs. 10 per share	Rs.	5,000
Less: Cost of right entitlement [Vide section 55(2)(aa)(ii)]	Rs.	Nil
Capital gain	Rs.	5,000

The period of holding will be from 2-7-2003 (date of offer of right) to 16-7-2003 (date of renouncement) [Vide sub-clause (e) in clause (i) of the *Explanation* 1 to section 2(42A)].

Mr. A's short-term capital gain	Rs.	5,000

(b) *Cost of right shares in the hands of renouncee Mr. B will be the aggregate of:*

Price paid to Mr. A for acquiring right entitlement [Vide section 55(2)(aa)(iv)] i.e., 500 right shares × Rs. 10 per share	Rs.	5,000
Add: Amount paid by Mr. B to M/s. X & Co. Ltd. [Vide section 55(2)(aa)(iv)] i.e., 500 right shares × Rs. 50 per share	Rs.	25,000
Cost of 500 right shares of M/s. X & Co. Ltd.	Rs.	30,000

The period of holding of 500 right shares will reckon from 26-9-2003 (i.e., date of allotment) [Vide sub-clause (d) in clause (i) of the *Explanation* 1 to section 2(42A)].

COST OF ACQUISITION IN RESPECT OF BONUS ISSUE:

[Sections 2(42A) & 55(2)(aa)]

Under section 55(2)(aa)(iiia), cost of bonus shares will be taken as 'nil' and the net sale proceeds will be treated as capital gain. This procedure will also apply to any other security[15] where a bonus issue has been made. The period of holding of such bonus issue will be reckoned from the date of the allotment of such issue [Vide sub-clause (f) in clause (i) of the *Explanation* 1 to section 2(42A)]. It may be noted that for bonus issue sold on or after 1-4-1995, the aforesaid procedure will apply and the net sale proceeds will be chargeable either as short-term or long-term capital gain.

Illustration : Mr. A purchased 1,000 shares of X & Co. Ltd. on 10-6-1987 for Rs. 45,000. He was allotted 1,000 bonus shares of the said company on 10-12-2000. He sold the entire lot of 2,000 shares of X & Co. Ltd. on 10-4-2003. The net sale proceeds received is Rs. 1,50,000. The long-term capital gain for assessment year 2004-05 will be as under:

15. The expression "securities" will have the meaning assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956. As per section 2(h) of the said Act, "securities" include shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate; Government securities; such other instruments as may be declared by the Central Government to be securities; and rights or interest in securities.

Net sale proceeds of 2,000 shares of X & Co. Ltd. . . . . Rs. 1,50,000

Less: Indexed cost of shares of X & Co. Ltd.:

No. of shares	Date of acquisition	Cost of acquisition		Cost Inflation Index Factor[16]			=	Indexed cost	
1,000	10-6-1987	Rs. 45,000	×	463[16] (Year of sale)	÷	150[16] (Year of acquisition)	=	Rs. 1,38,900	
1,000	10-12-2000	Rs. Nil[17]	×	N.A.[17]			=	Rs. Nil[17]	Rs. 1,38,900

Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162] . . . . Rs. 11,100

Notes: (1) If Mr. A had sold only 1,000 bonus shares on the said date for Rs. 75,000, the long-term capital gain will be Rs. 75,000, as the cost of bonus shares is to be taken as 'nil' vide section 55(2)(aa)(iiia), and the indexed cost also will be 'nil'.

(2) If the bonus shares referred to in note (1) were allotted on 10-12-2002 instead of 10-12-2000, then, Rs. 75,000 [as computed in note (1) above] would be a short-term capital gain as the period of holding of such shares is less than one year [Vide sub-clause (f) in clause (i) of the *Explanation* 1 to section 2(42A)].

COST OF ACQUISITION OF SHARES OR DEBENTURES IN A COMPANY RECEIVED ON CONVERSION OF BONDS/DEBENTURES, ETC:
[Section 49(2A)]

Where the shares or debentures in a company, received on conversion of bonds or debentures, debenture-stock or deposit certificates, are sold, the cost of acquisition of such shares or debentures will be the value extinguished out of the cost of bonds or debenture, debenture-stock or deposit certificates.

COST OF ACQUISITION OF SPECIFIED SECURITY IN THE CASE OF EMPLOYEES' STOCK OPTION [ESOP]:
[Section 49(2AA) & 49(2B)]

Only for assessment year 2000-01, capital gain in respect of specified securities acquired under ESOP, by an employee by exercising stock option [referred to in section 17(2)(iiia), for details, refer item (iv) on page 79], cost of acquisition thereof to the said employee shall be the fair market value on the date of exercise of option, in case the employee sells/transfers such securities [Section 49(2B)].

However, from assessment year 2001-02 and onwards, cost of acquisition of such securities [ESOP] to the employee will be its cost of acquisition, as determined under the ESOP or Scheme, which is in accordance with the guidelines issued by the Central Government. Where, however, the value of such securities has been treated as perquisite u/s. 17(2), for the reason that the allotment was not in accordance with such ESOP or Scheme, the cost of acquisition of such securities shall be the value treated as perquisite under that clause [Section 49 (2AA)]. Also refer item 3(c) on page 143.

5. Special provision for computation of capital gains in case of depreciable assets u/s. 32(1)(ii):
(Section 50)

Capital gains in respect of depreciable asset referred to in section 32(1)(ii) is to be computed on the basis of block of assets. The conditions and method of computation are as under:

(1) The capital asset is an asset forming part of a block of assets[18] in respect of which depreciation has been allowed [i.e., u/s. 32(1)(ii) & (iia)];

(2) The capital asset is transferred during the previous year;

(3) The full value of the consideration received or accruing as a result of the transfer of the capital asset of a particular block of assets exceeds the aggregate of the following amounts, namely—

(a) expenditure incurred wholly and exclusively in connection with such transfer;

(b) the written down value of the block of assets at the beginning of the previous year; and

(c) the actual cost of any asset falling within the block of assets acquired during the previous year,

the excess so arrived at shall be deemed to be the capital gains arising from the transfer of **short-term capital assets.**

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16. For notification on Cost Inflation Index, refer page 145/cover page 3.

17. The cost of 1,000 bonus shares allotted on 10-12-2000 is to be taken as 'nil' vide section 55(2)(aa)(iiia). As the cost is to be taken as 'nil', indexed cost also will be 'nil'.

18. "Block of assets" means a group of assets falling within a class of assets comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade-marks, licenses, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed [Section 2(11)].

Illustration: (**1**) Mr. Shah has the following depreciable block of assets:

W.D.V. of Plant 'A' & 'B' at the beginning of assessment year 1999-2000	Rs. 1,50,000
Less: Depreciation @ 25% for assessment year 1999-2000 on Rs. 1,50,000	Rs. 37,500
W.D.V. at the beginning of assessment year 2000-01	Rs. 1,12,500
Less: Depreciation @ 25% for assessment year 2000-01 on Rs. 1,12,500	Rs. 28,125
W.D.V. at the beginning of assessment year 2001-02	Rs. 84,375
Less: Depreciation @ 25% for assessment year 2001-02 on Rs. 84,375	Rs. 21,094
W.D.V. at the beginning of assessment year 2002-03	Rs. 63,281
Less: Depreciation @ 25% for assessment year 2002-03 on Rs. 63,281	Rs. 15,820
W.D.V. at the beginning of assessment year 2003-04	Rs. 47,461
Less: Depreciation @ 25% for assessment year 2003-04 on Rs. 47,461	Rs. 11,865
W.D.V. at the beginning of assessment year 2004-05	Rs. 35,596
During the financial year ending on 31-3-2004 Mr. Shah:	
(a) acquires on 3-11-2003 new plant 'C' for	Rs. 3,00,000
(b) sells on 4-11-2003 plant 'A' for	Rs. 5,00,000
W.D.V. of plants 'A' & 'B' at the beginning of assessment year 2004-05	Rs. 35,596
Add: Cost of new plant 'C' acquired during the previous year ending on 31-3-2004	Rs. 3,00,000
	Rs. 3,35,596
Less: Sale consideration of Plant 'A' Rs. 5,00,000. As the sale consideration of Rs. 5,00,000 exceeds Rs. 3,35,596, the amount to be deducted is restricted to	Rs. 3,35,596
W.D.V. for the financial year ending on 31-3-2004	Rs. [19]NIL

Computation of short-term capital gain:

Sale proceeds of plant 'A'		Rs. 5,00,000
Less: Deductions under section 50(1):		
(i) Expenditure incurred in connection with transfer	Rs. 10,000	
(ii) W.D.V. of plant 'A' & 'B' at the beginning of asstt. year 2004-05	Rs. 35,596	
(iii) Actual cost of plant 'C' acquired during the previous year	Rs. 3,00,000	Rs. 3,45,596
Short-term capital gain		Rs. 1,54,404

Illustration: (2) Mr. Shah has the following depreciable assets:

(a) Written down value of block of assets consisting of plants 'A', 'B' & 'C' as on 1-4-2003	Rs. 15,00,000
(b) Cost of new plant 'D' acquired during the previous year ending on 31-3-2004	Rs. 5,00,000
(c) Plants 'A', 'B', 'C' and 'D' transferred during the previous year ending on 31-3-2004	Rs. 25,00,000
(d) Expenditure incurred in connection with the transfer	Rs. 50,000

Computation of short-term capital gain:

Sale proceeds of plants 'A', 'B', 'C' & 'D' [Refer (c)]		Rs. 25,00,000
Less: Deductions under section 50(2):		
(i) Expenditure incurred in connection with transfer Rs. 50,000 [Refer (d)]	Rs. [20]NIL	
(ii) W.D.V. of plants 'A', 'B' & 'C' as on 1-4-2003 [Refer (a)]	Rs. 15,00,000	
(iii) Actual cost of plant 'D' acquired during the previous year [Refer (b)]	Rs. 5,00,000	Rs. 20,00,000
Short-term capital gain		Rs. 5,00,000

Note: No depreciation is allowable in the above illustrations in respect of this block of assets. If, in the above illustration (2), sale proceeds (of all the asset in relevant block) had been Rs. 19,00,000 instead of Rs. 25,00,000, then, short-term capital loss would be Rs. 1,00,000 (Rs. 20,00,000 *less* Rs. 19,00,000) [Refer *Example* No. 3 of Circular No. 469, dt. 23-9-1986: 162 ITR (St.) 30].

The provisions of adjusted cost will not apply to short-term capital gain as the said provisions applies to long-term capital gain only vide 2nd proviso to section 48 [Refer item 4 on page 144].

SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSET OF POWER SECTOR u/s. 32(1)(i):
(Section 50A)

Capital gain in respect of depreciable assets referred to in section 32(1)(i) [i.e., power sector] is to be computed in accordance with the provisions of section 50A and not as per section 50 discussed above. For the purposes of capital gain on sale of such assets, where the asset is sold at a price exceeding the actual cost,

19. Since the W.D.V. is nil, the question of claiming depreciation, in respect of this block of assets, for the financial year ending on 31-3-2004 (assessment year 2004-05) would not arise.

20. In cases where all the assets of a particular block of assets are transferred during the previous year, there is no provision in sub-section (2) of section 50 for deduction of "expenditure incurred wholly and exclusively in connection with the transfer or transfers" while computing the short-term capital gains. In other words, expenditure in connection with transfer is not deductible from the sale proceeds in such cases.

provisions of sections 48 (mode of computation) & 49 (cost with reference to certain modes of acquisition) will apply subject to the modification that the written down value as defined in section 43(6), of the assets, as adjusted, shall be taken as cost of acquisition of the asset.

SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF SLUMP SALE:
(Section 50B)

Any profits or gains arising from slump sale[21] shall be chargeable to income-tax as long-term capital gains and it will be deemed to be capital gains of the previous year in which the transfer took place [Section 50B(1)]. However, where slump sale is of one or more undertakings owned and held by an assessee for not more than 36 months immediately preceding the date of its transfer shall be deemed to be a short-term capital gains [Proviso to section 50B(1)].

Where the undertaking or division is transferred in slump sale, the 'net worth' of the undertaking or division shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 (mode of computation) & 49 (cost with reference to certain modes of acquisition) and no indexation of such cost will be allowed as prescribed in the 2nd proviso to section 48 [Section 50B(2)].

In the case of slump sale, the assessee should furnish in the prescribed Form No. 3CEA along with the return of income, a report of an accountant as defined in the *Explanation* to section 288(2) indicating the computation of the 'net worth' of the undertaking or division and certifying that the 'net worth' has been correctly arrived at in accordance with the provisions of this section [Section 50B(3)].

"Net worth" for the purposes of this section means the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account subject to condition that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing net worth. For computing the net worth, the aggregate value of total assets shall be: (a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with section 43(6)(c)(i)(C); and (b) in the case of other assets, the book value of such assets [*Explanation* to section 50B].

SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION IN CERTAIN CASES:
(Section 50C)

Upto assessment year 2002-03, in the sale of land or building or both, the value declared in the transfer (sale) deed is taken as the full value of consideration for computing capital gains. There is no specific provision in the Income-tax Act to increase such declared price in the transfer (sale) deed.

Section 50C, w.e.f. 1-4-2003 (assessment year 2003-04 and onwards), provides that where the stamp valuation authority (SVA) fixes a value higher than the said declared price in the transfer (sale) deed for the purposes of stamp duty, the value so fixed by the SVA will be taken to be full value of consideration received or receivable as result of transfer (sale) [Section 50C(1)].

However, an assessee may object and claim before the Assessing Officer (AO) that the value adopted by the SVA is higher than the fair market value of the property on the date of transfer (sale) and the value so adopted by the SVA has not been disputed in any appeal or revision or no reference has been filed before any other authority, court or the High Court, AO may refer the valuation of the property to the Valuation Officer (VO). All the provisions of the Wealth-tax Act in the matter of reference to the VO will be applicable to such reference made by the AO [Section 50C(2)].

Where the value estimated by the VO exceeds the value adopted by the SVA, the value adopted by the SVA will be taken to be the full value of consideration for computing the capital gains [Section 50C(3)]. As a corollary, where the value estimated by the VO is less than that adopted by the SVA, the value estimated by the VO will be taken as the full value of consideration.

W.e.f. 1-6-2002, in case where the value adopted by the SVA is disputed in appeal, reference, etc., as aforesaid, as and when the value adopted by the SVA is revised, the AO is empowered to amend the assessment order, wherein capital gains has been computed and assessed, within 4 years from the end of the previous year in which the order revising the value adopted by the SVA was passed in appeal or revision or reference [Section 155(15)].

PROVISIONS RELATING TO DEMERGER OF COMPANIES :
[Explanation 1 to section 2 (42A), section 47 & section 49(2C)/(2D)]

Salient features of provisions relating to demerger of companies pertaining to computation of business income is given in item (31) on page 127 and those pertaining to computation of capital gains is given hereafter.

21. "Slump sale" is defined to mean the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales [Section 2(42C)].

(A) *Determination of holding period for capital asset:* The period for which any capital asset is held by the assessee is to be determined in accordance with the *Explanation1* to section 2 (42A) [For details, refer note (2) on page 139]. Sub-clause (g) of the said *Explanation 1* provides that for determining the holding period for share(s) in an Indian company, which becomes property of the assessee in consideration of a demerger, the period for which the share(s) in the demerged company were held by the assessee is to be included.

(B) *Transactions not regarded as transfer:* Section 47 deals with transactions not regarded as transfer [For details, refer item 3 on page 142]. Clauses (vib), (vic) & (vid) are inserted in section 47 w.e.f. 1-4-2000.

(1) Clause (vib) provides that in a demerger, any transfer of a capital asset by the demerged company to the resulting Indian company will not be regarded as transfer.

(2) Clause (vic) provides that in a demerger, any transfer of shares held in an Indian company by the demerged foreign company to the resulting foreign company will not be regarded as transfer, if: (a) the shareholders holding not less than three-fourths (i.e., 75%) in value of the shares of the demerged foreign company continue to remain the shareholders of the resulting foreign company; and (b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated. The provisions of sections 391 to 394 of the Companies Act, 1956 will not apply to demerger under clause (vic).

(3) Clause (vid) provides that in a scheme of demerger, any transfer or issue of shares by the resulting company to the shareholders of the demerged company will not be regarded as transfer if the transfer or issue is made in consideration of demerger of the undertaking.

(C) *Cost of acquisition:* Section 49 deals with computation of cost of acquisition in respect of transfer [For details, refer page 146].

Section 49(2C) provides that the cost of acquisition of shares in the resulting company [Refer sub-para (B) (3) above] shall be the amount which bears to the cost of acquisition of shares in demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the 'net worth' of the demerged company immediately before such demerger. For this purpose 'net worth' means the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.

Section 49(2D) provides that the cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the cost of acquisition of resulting company's shares as arrived at in preceding paragraph.

6. Exemptions[21a]

(A) CAPITAL GAIN ON TRANSFER OF A UNIT OF THE UNIT SCHEME, 1964:
[Section 10(33)]

Upto assessment year 2002-03, any capital gain arising on transfer of unit of the Unit Scheme, 1964 is chargeable to tax under the head "Capital gains".

From assessment year 2003-04 and onwards, any income (i.e., capital gains either short-term or long-term) arising from the transfer of a unit of the Unit Scheme, 1964 referred to in Schedule 1 to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, on or after 1-4-2002, is exempt u/s. 10(33). Consequently loss arising on transfer (sale) of such unit cannot be set off against capital gains in respect of other assets.

(B) LONG-TERM CAPITAL GAINS ON TRANSFER OF ELIGIBLE EQUITY SHARES PURCHASED ON OR AFTER 1-3-2003 AND BEFORE 1-3-2004:
[Section 10(36)]

Capital gains arising on transfer (sale) of equity shares is chargeable to tax under the head "Capital gains".

Long-term capital gains arising on transfer (sale) of an eligible equity share in a company purchased on or after 1-3-2003 and before 1-3-2004 and held for a period of 12 months or more is exempt u/s. 10(36) in relation to assessment year 2004-05 and subsequent years.

'Eligible equity share' is defined to mean: (1) any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on 1-3-2003 (refer page 169) and the transactions of purchase & sale of such equity share are entered into on a recognised stock exchange in India; (2) any equity share in a company allotted through a public issue on or after 1-3-2003 and listed in a recognised stock exchange in India before 1-3-2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India. The Board has clarified that the term "public issue" used in the *Explanation* (ii) to section 10(36) shall include the offer of equity shares in a company to the public through a prospectus, whether by the company or by the existing shareholders of the company [vide Para 17.4 of the Circular No. 7, dt. 5-9-2003: 263 ITR(St.) 62-76].

21a. For the notes on new section 10(37)/10(38) inserted by the Finance (No. 2) Act, 2004, exempting capital gain arising on compulsory acquisition of agricultural land in certain urban areas/long-term capital gains arising on transfer of securities, etc., refer para 6.1 & 6.2 on page 46.

(C) PROFIT ON SALE OF PROPERTY USED FOR RESIDENCE:
(Section 54)

Where an assessee being *an individual or a Hindu undivided family*, transfers residential house (hereafter referred to as the original asset), whether self-occupied or not, the income of which is chargeable under the head "Income from house property"[22], the capital gain arising as a result of transfer or sale of such property will be fully exempt and will not be included in the gross total income provided the following conditions are fulfilled:

(1) the residential house (original asset) is held for a period of more than three years;

(2) the assessee has purchased a residential house (hereafter referred to as the new asset) within a period of one year before or two years after the date of transfer or sale of original asset or has constructed[23] a residential house (new asset) within a period of three years after the date of transfer or sale of the original asset;

(3) where the amount of the capital gain is not appropriated or utilised for acquisition of the new asset before the due date of furnishing the return of income, it should be deposited by the assessee in an account with any specified bank or institution as explained in item (M) on page 158;

(4) the cost of the new asset (residential house) equals or exceeds the amount of capital gain.

Where the amount of capital gain is greater than the cost of new asset, the difference between the amount of capital gain and the cost of new asset will be chargeable as "long-term capital gain" of the previous year in which the original asset was sold.

Where the new asset is sold within 3 years from the date of its purchase or construction, as the case may be, the cost of new asset is to be reduced by the amount of capital gain exempted from tax on the original asset and the difference between the sale price of such new asset and such reduced cost will be chargeable as *short-term capital gain* and treated as the income of the previous year in which the new asset is sold.

EXAMPLE (iii): Mr. A is the owner of a residential house which was purchased in April, 1984 for Rs. 1,25,000. He sold the said residential house for Rs. 5,70,000 on 30-6-2003. The long-term capital gain as a result of transfer for the **assessment year 2004-05** will be as under:

Sale price of the residential house		Rs. 5,70,000
Less: Cost of acquisition:		
Purchased in April, 1984 for	Rs. 1,25,000	
Indexed cost of acquisition under 2nd proviso to section 48 [Refer item 4 on pp. 144-149]: Rs. 1,25,000 (cost of acquisition) × 463[24] (Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 125[24] (Cost Inflation Index of the financial year of acquisition i.e., 1984-85) is		Rs. 4,63,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]		Rs. 1,07,000

(a) If Mr. A purchases on or after 1-7-2002 but before 30-6-2005[25] a residential house (new asset) for Rs. 2,50,000, the long-term capital gain of Rs. 1,07,000 will not be chargeable u/s. 45 for the assessment year 2004-05. But the cost of the new asset purchased shall be taken at Rs. 1,43,000 [Rs. 2,50,000 *less* Rs. 1,07,000] if the same is sold or transferred within 3 years from the date of its purchase.

(b) If Mr. A constructs a residential house (new asset) costing Rs. 2,50,000[26] after 30-6-2003 but before 30-6-2006[25] then also the long-term capital gain of Rs. 1,07,000 is not chargeable u/s. 45 for the assessment

22. An assessee shall be entitled to exemption even in respect of self-occupied residential house annual value of which is 'nil' under the head "Income from house property" by virtue of section 23(2) read with section 24 [Refer Circular No. 538, dt. 13-7-1989: 179 ITR (St.) 23].

23. (a) The Board has clarified that "if the amount of capital gain for the purposes of section 54, and the net consideration for the purposes of section 54F, is appropriated towards purchase of a plot (of land) and also towards construction of a residential house thereon, the aggregate cost should be considered for determining the quantum of deduction u/s. 54/54F, provided that the acquisition of plot (of land) and also the construction thereon are completed within the period specified in these sections" [vide Circular No. 667, dt. 18-10-1993: 204 ITR (St.) 103].

(b) In respect of flats allotted under the Self-financing Scheme of the Delhi Development Authority, the allottee gets title to the property on the issuance of the allotment letter. The Board has clarified that "in such an event, allotment of flats under the said scheme shall be treated as cases of construction for the purpose of sections 54/54F" [vide Circular No. 471, dt. 15-10-1986: 162 ITR (St.) 41].

(c) The Board has clarified that, "if the terms of the schemes of allotment and construction of flats/houses by the co-operative societies/other institutions are similar to those mentioned in para 2 of the Circular No. 471, dt. 15-10-1986, such cases may also be treated as cases of construction for the purposes of sections 54/54F" [vide Circular No. 672, dt. 16-12-1993: 205 ITR (St.) 47].

24. For notification on Cost Inflation Index, refer page 145/cover page 3.

25. If the amount of capital gain is not appropriated or utilised for acquisition of the new residential house before the due date of furnishing return of income for the assessment year 2004-05, Mr. A will have to deposit the unappropriated or unutilised amount of capital gain in an account with any specified bank or institution before the due date for furnishing the return of income u/s. 139(1). For details, refer item (M) on page 158.

26. Refer footnote No. 23 above.

year 2004-05. But the cost of the new asset shall be taken at Rs. 1,43,000 [Rs. 2,50,000 *less* Rs. 1,07,000] if the same is sold or transferred within 3 years of its construction.

(c) In the above *Example,* if the cost of construction or purchase of the residential house (new asset) is Rs. 90,000, then, the long-term capital gain of Rs. 17,000 [Rs. 1,07,000 long-term capital gain of residential house (original asset) sold *less* Rs. 90,000 cost of residential house (new asset)] is chargeable u/s. 45 and income-tax thereon at the flat rate is payable u/s. 112 for the assessment year 2004-05.

In this case, if the residential house (new asset) is sold within 3 years from the date of its construction or purchase, as the case may be, the whole amount of sale proceeds will be treated as short-term capital gain and will be included in the gross total income of the year in which such residential house (new asset) is sold or transferred as its cost at the time of sale will be taken to be 'nil' in view of the exemption of capital gain of Rs. 90,000 already allowed.

(d) If the residential house (new asset) as stated above is sold after three years from the date of purchase or the construction, as the case may be, the cost of such residential house purchased or constructed is to be taken to be the *actual cost* and for the purpose of determining long-term capital gain arising on the sale, the provisions of indexed cost of acquisition would apply [Refer item 4 on page 144].

(D) TRANSFER OF LAND USED FOR AGRICULTURAL PURPOSES:

(Section 54B)

Where the capital gain arises on or after 1-3-1970 from the transfer of agricultural land which was used by the assessee or his parent for agricultural purposes for a period of two years immediately preceding the date of transfer, the capital gain arising as a result of transfer or sale of such agricultural land is not to be charged u/s. 45 provided the following conditions are fulfilled:

(i) the assessee has purchased any other land for being used for agricultural purposes within a period of two years after the date of transfer or sale; and

(ii) the cost of the land so purchased equals or exceeds the amount of capital gain.

In a case where the amount of capital gain is greater than the cost of agricultural land so purchased, the difference between the amount of capital gain and the cost of new agricultural land so purchased will be treated as capital gain relating to lands and buildings. If such new agricultural land is sold within a period of three years from the date of its purchase, its cost will be taken to be 'nil' and the entire amount received as a result of sale or transfer will be treated as capital gain relating to lands and buildings.

In a case where the amount of capital gain is less than or equal to the cost of new agricultural land, such capital gain will not be chargeable u/s. 45. However, where such new agricultural land is sold or transferred within a period of three years from the date of its purchase, the cost of such new agricultural land is to be reduced by the amount of capital gain which had been exempt from tax.

For computing capital gain and the cost of new asset, etc. under certain circumstances, please refer the method and manner explained in *Example (iii)* on page 153.

Where the amount of the capital gain is not utilised for acquisition of the new asset before the due date of furnishing the return of income, it should be deposited by the assessee in an account with any specified bank or institution as explained in item (M) on page 158.

(E) COMPULSORY ACQUISITION OF LANDS AND BUILDINGS IN THE CASE OF PERSONS OWNING INDUSTRIAL UNDERTAKING:

(Section 54D)

Section 54D provides relief from tax, in the case of persons owning industrial undertakings, in respect of capital gain arising on compulsory acquisition of any land or building used by them for the purposes of the business. This tax relief will be available only in cases where such compulsorily acquired land or building was used by the assessee for the purposes of the business of an industrial undertaking during the two years immediately preceding the date of compulsory acquisition and the assessee purchases any other land or building or constructs any other building within three years from the date of compulsory acquisition for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking. The capital gain, in such cases, will not be chargeable u/s. 45 to the extent it is utilised for purchasing or constructing the new asset.

In a case where the amount of capital gain exceeds the cost of purchase of the other land or construction of the other building, the excess will be chargeable as capital gain u/s. 45. However, where such new land or building is sold within a period of three years, its cost will be taken to be 'nil' and the entire amount received as a result of sale or transfer will be treated as capital gain relating to lands and buildings.

In a case where the amount of capital gain is less than or equal to the purchase price or cost of construction (of new land and building), such capital gain will not be chargeable u/s. 45. However, as explained in *Example (iii)* on page 153, where such new land or building is sold or transferred within a period of three years from

the date of its purchase or construction, as the case may be, the cost of such land or building is to be reduced by the amount of capital gain which had been exempted from tax.

Where the amount of the capital gain is not utilised for acquisition of the new asset before the due date of furnishing the return of income, it should be deposited by the assessee in an account with any specified bank or institution as explained in item (M) on page 158.

(F) LONG-TERM CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS NOT TO BE CHARGED IN THE CASE OF INVESTMENT OF NET CONSIDERATION IN SPECIFIED BONDS, DEBENTURES, SHARES OF A PUBLIC COMPANY OR UNITS OF MUTUAL FUND:

(Section 54EA)

Upto assessment year 2000-01:

The capital gain accruing or arising, **on or after 1-10-1996 but before 1-4-2000,** on transfer of **long-term capital asset** will be exempt if the assessee has invested the net consideration in the specified bonds, debentures, shares of a public company or units of mutual fund subject to the fulfillment of conditions prescribed. For the notes on this section, refer page 155 of ITRR 2003-04 (65th Year of Publication).

(G) LONG-TERM CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS NOT TO BE CHARGED IN THE CASE OF INVESTMENT OF CAPITAL GAIN IN LONG-TERM SPECIFIED ASSETS:

(Section 54EB)

Upto assessment year 2000-01:

The capital gain accruing or arising, **on or after 1-10-1996 but before 1-4-2000,** on transfer of **long-term capital asset** will be exempt if the assessee has invested the capital gain in the long-term specified asset subject to the fulfillment of conditions prescribed. For the notes on this section, refer page 156 of ITRR 2003-04 (65th Year of Publication).

(H) LONG-TERM CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS NOT TO BE CHARGED IN THE CASE OF INVESTMENT OF CAPITAL GAIN IN CERTAIN BONDS:

(Section 54EC)

Section 54EC provides that, w.e.f. 1-4-2001 (assessment year 2001-02 and onwards), where the capital gain arises from the transfer of a **long-term capital asset,** it will be exempt if the assessee has invested the capital gain in the long-term specified asset subject to the fulfillment of conditions given hereunder:

1. the capital gain arises **on or after 1-4-2000** (and not upto 31-3-2000) from the transfer of a **long-term capital asset** (hereafter referred to as the 'original asset');

2. the assessee has, within a period of 6 months[27] after the date of transfer or sale of the original asset, invested whole or any part of capital gains in the 'long-term specified asset'.

"Long-term specified asset" is defined to mean any bond redeemable after three years, issued,–

(a) on or after 1-4-2000, by the National Bank for Agricultural and Rural Development or by the National Highways Authority of India,

(b) on or after 1-4-2001, by the Rural Electrification Corporation Ltd.,

(c) on or after 1-4-2002, by the National Housing Bank or by the Small Industries Development Bank of India;

3. the cost of the long-term specified asset is not less than the capital gain in respect of the original asset. If the cost of the long-term specified asset is less than the capital gain, then, capital gain proportionate to part of capital gain invested will be exempt. To illustrate, if cost of the long-term specified asset is, say, Rs. 50,000 and capital gain in respect of original asset is, say Rs. 60,000, then capital gain exempt u/s. 54EC(1)(b) will be Rs. 50,000 [i.e., Rs. 60,000 (capital gain) × Rs. 50,000 (investment in long-term specified asset) ÷ Rs. 60,000 (capital gain) = Rs. 50,000]. The balance long-term capital gain of Rs. 10,000 will be charged to tax u/s. 112(1).

After availing the exemption, the assessee has to retain the long-term specified asset for a minimum period of three years from the date of its acquisition.

If the long-term specified asset is transferred or converted (otherwise than by transfer) into money or the assessee takes loan or advance on the security of such long-term specified asset, at any time within a period of three years from the date of its acquisition, the amount of exempted capital gain on transfer of original asset will be deemed to be long-term capital gain—

(a) of the previous year in which long-term specified asset is transferred or converted into money, or

(b) of the previous year in which loan or advance is taken against security of such long-term specified asset. It may be noted that irrespective of the quantum of loan or advance taken, the entire exempted amount of capital gain will be brought to tax.

27. Where a capital asset converted into stock-in-trade is sold or transferred, the period of 6 months for making investments in specified assets for the purpose of sections 54EA, 54EB and 54EC should be taken from the date such stock-in-trade is sold or otherwise transferred, in terms of section 45(2) [Circular No. 791, dt. 2-6-2000: 243 ITR (St.) 155].

Where the cost of long-term specified asset is also eligible for rebate of income-tax u/s. 88, the said rebate will not be allowed if the exemption is availed under section 54EC.

'Cost', in relation to any long-term specified asset, means the amount invested in such specified asset out of the capital gains received or accruing as a result of the transfer of the original asset.

(I) LONG-TERM CAPITAL GAIN ON TRANSFER OF CERTAIN LISTED SECURITIES OR UNIT, NOT TO BE CHARGED IN CERTAIN CASES:
(Section 54ED)

Section 54ED provides that, w.e.f. 1-4-2002 (assessment year 2002-03 and onwards), where the capital gain arises from the transfer of a **long-term capital asset, being listed securities or unit**, it will be exempt if the assessee has invested the capital gain in acquiring equity shares of an eligible issue of capital subject to fulfillment of conditions given hereunder:

1. the capital gain arises on or after 1-4-2001 (and not upto 31-3-2001) from the transfer of **long-term capital asset, being listed securities or unit** (hereafter referred to as the 'original asset').

"Listed securities" is defined to mean listed securities as defined in clause (a) of the *Explanation* to section 112(1). As per the said clause, "Listed securities" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956[28]; and such securities are listed in any recognised stock exchange in India. "Unit" means unit of a mutual fund specified in section 10(23D) or of the Unit Trust of India;

2. the assessee has, within a period of 6 months after the date of transfer or sale of the original asset, invested whole or any part of capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares hereafter referred to as the 'specified equity shares').

"Eligible issue of capital" means an issue of equity shares made by an Indian public company and such shares forms part of the issue offered for subscription to the public;

3. the cost of specified equity shares is not less than the capital gain in respect of the original asset. If cost of the specified equity shares is less than the capital gain, then, capital gain proportionate to part of capital gain invested will be exempt. To illustrate, if cost of the specified equity shares is, say Rs. 1,00,000, and capital gain in respect of original asset is, say Rs. 1,20,000, then capital gain exempt u/s. 54ED(1)(b) will be Rs. 1,00,000 [i.e., Rs. 1,20,000 (capital gain) × Rs. 1,00,000 (investment in specified equity shares) ÷ Rs. 1,20,000 (capital gain) = Rs. 1,00,000]. The balance long-term capital gain of Rs. 20,000 will be charged to tax u/s. 112(1).

After availing the exemption, assessee has to retain the specified equity shares for a minimum period of one year from the date of its acquisition.

If the specified equity shares are sold or transferred within a period of one year from the date of its acquisition, the amount of exempted capital gain on transfer of original asset will be deemed to be long-term capital gain of the previous year in which specified equity shares are sold or transferred.

Where the cost of the specified equity shares is also eligible for rebate of income-tax u/s. 88, the said rebate will not be allowed if the exemption is availed u/s. 54ED(1).

(J) LONG-TERM CAPITAL GAIN ON TRANSFER OF CERTAIN CAPITAL ASSETS NOT TO BE CHARGED IN CASE OF INVESTMENT IN RESIDENTIAL HOUSE:
(Section 54F)

The long-term capital gain arising from the transfer of any capital asset, *not being a residential house,* will be exempt if the assessee has purchased or constructed a residential house subject to the fulfillment of conditions given hereunder:

(i) the assessee is *an individual or a Hindu undivided family;*

(ii) the capital gain arises from the transfer of any long-term capital asset (hereafter referred to as the original asset) other than a residential house;

(iii) within a period of one year before or two years after the date of transfer or sale of original asset, the assessee purchases a residential house or constructs[29] a residential house (hereafter referred to as the new asset) within three years after the date of transfer or sale of original asset;

(iv) where the amount of the net consideration is not appropriated or utilised for acquisition of the new asset before the due date of furnishing the return of income, it should be deposited by the assessee in an account with any specified bank or institution as explained in item (M) on page 158.

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28. As per section 2(h) of the Securities Contracts (Regulation) Act, 1956, "securities" includes shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate; Government securities; such other instruments as may be declared by the Central Government to be securities; and rights or interest in securities.

29. Refer footnote No. 23 on page 153.

(v) the cost of purchase or construction of new asset is not less than the net consideration in respect of the original asset;

(vi) on the date of transfer of original asset, the assessee—

(a) does not own more than one residential house, other than new asset,

(b) does not purchase within one year or construct within three years after that date, any residential house, other than new asset, and

(c) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property" [Proviso to section 54F(1)].

If these conditions are satisfied, the capital gain arising on sale or transfer of original asset will be wholly exempt.

Where only a part of the net consideration is invested in the new asset (viz. residential house), then, only proportionate capital gain will be exempt as explained in *Example (iv)* given hereafter.

After availing the exemption, the assessee—

(i) has to retain the new asset (residential house) for a period of not less than three years from the date of its purchase or construction, and

(ii) should not purchase any residential house other than new asset for a period of two years from the date of transfer of original asset or construct any residential house other than new asset for a period of three years from the date of transfer of original asset.

If the above conditions are not satisfied, then, the capital gain originally exempted on transfer of the original asset, shall be treated as long-term capital gain of the previous year in which such new asset is sold or residential house other than new asset is purchased or constructed, as the case may be. The residential house may be let out or self-occupied.

EXAMPLE: (iv) Mr. A transfers shares of companies (or any asset other than a residential house, bonds or debentures) on 6-6-2003 for a consideration of Rs. 9,20,000. The shares were purchased on 1-6-1987 for Rs. 1,50,000. On 6-6-2003 he was owning residential house I ('RH-I').

(1) Net consideration on sale is Rs. 8,88,000 [Rs. 9,20,000 *less* Rs. 32,000 (expenses incurred exclusively on transfer)].

(2) Capital gain on sale is Rs. 4,25,000 [Rs. 8,88,000 (net consideration) *less* Rs. 4,63,000 (indexed cost of acquisition[30])].

(a) Mr. A purchases for Rs. 8,90,000 a residential house II ('RH-II') after 6-6-2002 but before 6-6-2005[31]. The whole long-term capital gain of Rs. 4,25,000 will be exempt, provided Mr. A does not purchase residential house [other than 'RH-I' & 'RH-II'] before 6-6-2005 or Mr. A does not construct residential house [other than 'RH-I' & 'RH-II'] before 6-6-2006.

(b) In the above case, if the investment in the residential house ['RH-II'] (by purchase or construction, as the case may be) is only Rs. 4,44,000, only proportionate capital gain will be exempt as under:

Capital gain on net consideration of Rs. 8,88,000 [Refer (2)]						Rs. 4,25,000
Less: Exemption under section 54F:						
Capital gain Rs. 4,25,000	×	Investment in residential house Rs. 4,44,000	÷	Net consideration Rs. 8,88,000		Rs. 2,12,500
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]						Rs. 2,12,500

(c) If Mr. A purchases yet another residential house III ['RH-III'] before 6-6-2005 or constructs one before 6-6-2006, then the long-term capital gain of Rs. 4,25,000 or Rs. 2,12,500, as the case may be, which was exempted earlier will be charged to tax as long-term capital gain of the assessment year in which the residential house III ['RH-III'] is purchased or constructed.

(d) If Mr. A transfers the residential house 'RH-II' (new asset) [say, purchased or constructed on 3-5-2004] before 3-5-2007, say on 1-11-2005, then the long-term capital gain of Rs. 4,25,000 or Rs. 2,12,500, as the case may be, which was exempted earlier will be deemed to be long-term capital gain of assessment year 2006-07 [that is, in the year of sale of the new asset ('RH-II')].

30. Indexed cost of acquisition is arrived at as under:

Rs. 1,50,000 (Cost of acquisition) × 463 [being Cost Inflation Index of the financial year of sale i.e., 2003-04 (refer Notification on page 145)] ÷ 150 [being Cost Inflation Index of the financial year of acquisition i.e., 1987-88 (refer Notification on page 145)] = Rs. 4,63,000.

31. If the amount of net consideration is not appropriated or utilised for acquisition of a residential house before the due date of furnishing return of income for the assessment year 2004-05, Mr. A will have to deposit the unappropriated or unutilised amount of net consideration in an account with any specified bank or institution before the due date for furnishing the return of income u/s. 139(1). For details, refer item (M) on page 158.

EXAMPLE: (v)	1.	Mr. A sells shares on 2-9-2003 for net consideration of [on 2-9-2003, he was owning one residential house I ('RH-I')]	Rs. 6,38,000
	2.	Mr. A had purchased these shares in April, 1981 for	Rs. 1,00,000
	3.	Long-term capital gain accrued on 2-9-2003 (Rs. 6,38,000 *less* Rs. 4,63,000[32])	Rs. 1,75,000
	4.	Mr. A purchases residential house II ('RH-II') on 2-12-2003 for	Rs. 4,78,500
		Long-term capital gain in respect of transfer of shares (Refer 3)	Rs. 1,75,000
		Less: Exemption u/s. 54F for purchase of residential house II ('RH-II') (Refer 4): Purchase of residential house II ('RH-II') Rs. 4,78,500 × capital gain Rs. 1,75,000 ÷ Net consideration Rs. 6,38,000	Rs. 1,31,250
		Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 7 on page 162]	Rs. 43,750

(K) CAPITAL GAINS ON SHIFTING OF INDUSTRIAL UNDERTAKINGS FROM URBAN AREAS:

(Section 54G)

Section 54G provides that any capital gain, whether short-term or long-term, arising on transfer of machinery, plant, building or land used for the purposes of the business of an industrial undertaking due to such undertaking shifting from notified urban area[33] to non-urban area, is exempt to the extent such gain is utilised, within a period of one year before or three years after the date of transfer for the purchase of new machinery or plant or acquiring land or building or constructing building or for the expenses incurred on such other purposes as may be specified in a scheme to be framed by the Central Government.

Where the amount of capital gain is not appropriated or utilised for purchase of new asset before the due date of furnishing the return of income, then the amount of gains has to be deposited in the deposit scheme as explained in item (M) hereafter.

(L) EXTENSION OF TIME FOR ACQUIRING NEW ASSET OR DEPOSITING OR INVESTING AMOUNT OF CAPITAL GAIN IN COMPULSORY ACQUISITION CASES:

(Section 54H)

In cases of compulsory acquisition, capital gain is assessable in the year in which compensation is first received [Refer item 2(f) on page 141]. Section 54H provides for extension of time for acquiring new asset or making investment prescribed under sections 54, 54B, 54D, [54EA/54EB upto assessment year 2000-01; 54EC, from assessment year 2001-02 & onwards] & 54F in such cases. The various time limits will be reckoned from the date of receipt of compensation.

It has also been provided that where the compensation is received before 1-4-1991 and the prescribed time limit under the respective sections has already expired, then, the said period(s) will stand extended upto 31-12-1991.

(M) SCHEME FOR DEPOSITS TO AVAIL EXEMPTION FROM CAPITAL GAINS:

For availing exemption under sections 54, 54B, 54D, 54F & 54G from capital gain, where the amount of capital gain or the net consideration, as the case may be, is not appropriated or utilised by the assessee for acquisition of the new asset before the date of furnishing the return of income u/s. 139(1), it shall be deposited by him on or before the due date of furnishing the return of income u/s. 139(1), in an account with any specified bank or institution and utilised in accordance with the Capital Gains Accounts Scheme, 1988 framed by the Central Government in this regard. Such return shall be accompanied by proof of such deposit. The amount already utilised in purchase or construction of the new asset together with the amount of deposit shall be deemed to be the amount utilised for the acquisition of the new asset. The amount deposited has to be utilised within the time specified for the acquisition of new asset under respective sections i.e., 54, 54B, 54D, 54F & 54G. If the amount deposited is not utilised wholly, the capital gain will be brought to tax in the year in which the specified period expires and if only part of the deposit is utilised, the capital gain relatable to the unutilised deposit will be brought to tax in the year in which the specified period expires.

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32. Indexed cost of acquisition is arrived at as under:
Rs. 1,00,000 (cost of acquisition) × 463 [being Cost Inflation Index of the financial year of sale i.e., 2003-04 (refer Notification on page 145)] ÷ 100 [being Cost Inflation Index of the financial year of acquisition i.e., 1981-82 (refer Notification on page 145)] = Rs. 4,63,000.

33. For the notified 'urban area': (1) in the State of Maharashtra, refer Notification No. S.O. 248(E), dt. 2-3-1994 [209 ITR (St.) 45]; (2) in the State of Tamil Nadu, refer Notification No. S.O. 276(E), dt. 2-4-1996 [220 ITR (St.) 287] & (3) in the State of Gujarat & Delhi, refer Notification No. S.O. 3, dt. 20-12-1999 [242 ITR (St.) 164].

SALIENT FEATURES OF CAPITAL GAINS ACCOUNTS SCHEME:

[Notification No. G.S.R. 724(E), dt. 22nd June, 1988. Refer 172 ITR (St.) 54]

1. Under the Capital Gains Accounts Scheme, 1988, "depositor" is defined to mean an assessee who is eligible to make a deposit under sections 54, 54B, 54D, 54F or 54G of the Income-tax Act, 1961 [Paragraph 2(f)].

2. "Deposit Office" means the bank notified by the Central Government to receive deposit and maintain account of the depositor [Paragraph 2(e)]. For notified bank, refer Notification No. G.S.R. 725 (E), dt. 22nd June, 1988: 172 ITR (St.) 74.

3. Every depositor who is desirous of opening account(s) for the first time, shall apply to the deposit office in Form A in duplicate together with the amount of deposit to be paid either in cash or by crossed cheque or by draft. Such deposit can be made in one lump sum or in instalments at any time on or before the due date of furnishing the return of income. For availing benefit of exemption from capital gains under more than one section, depositor has to make separate applications for opening accounts under each of such sections. There are two types of deposit accounts (1) "Deposit account-A" in the form of 'savings deposit', and (2) "Deposit account-B" in the form of "term deposit" with an option to keep the deposit as cumulative or non-cumulative. A depositor has an option to open any of these accounts or both. Nomination in respect of an account can be made by the depositor, who is an individual, in Form E. For the deposit under account-A, deposit office will issue passbook. For the deposit under account-B, deposit office will issue a deposit receipt [Paragraphs 4, 5 & 11].

4. For the deposit made under account-A, interest at the rate specified by the Reserve Bank of India will be allowed for each calendar month on the lowest balance between the close of 10th day and end of the month and credited to the account at the end of each half-year. For the deposit made under account-B, interest at the rate specified by the Reserve Bank of India will be allowed [Paragraph 8].

5. A depositor having a deposit in account-B can convert the said account into account-A by applying in Form B. Account can be transferred from one branch to another branch of the same bank [Paragraph 7].

6. Application in Form C has to be made in respect of first withdrawal from account-A and for subsequent withdrawals from the said account in Form D in duplicate stating therein the manner and extent of utilisation of the amount of immediately preceding withdrawal. The amount so withdrawn has to be utilised by the depositor, within 60 days from the date of withdrawal, for the purposes specified in sub-section (1) of section 54, or section 54B or 54D or 54F or 54G. The amount which has not been so utilised is to be re-deposited in account-A immediately thereafter. In the same manner withdrawal from account-B will also be allowed provided depositor has converted the said account into account-A in the manner explained in 5 [Paragraphs 9 & 10].

7. For closure of account, an application has to be made, with the approval of the Assessing Officer, to the deposit office in Form G. In the same manner, nominee or legal heir also can close the account of the deceased depositor by applying in Form H[34] [Paragraph 13].

EXAMPLE (vi): Mr. A is the owner of more than one residential houses. He transfers one of the residential house for a consideration of Rs. 12,00,000 on 1-3-2004 which he had purchased in April, 1981 for Rs. 2,00,000. Upto 1-7-2004, he spent Rs. 2,00,000 on the construction[35] of a new residential house which could not be completed before 31-7-2004 being the due date for filing return of income for the assessment year 2004-05 in his case. On 16-7-2004, he deposited Rs. 50,000 in a specified bank under the Capital Gains Accounts Scheme notified by the Central Government. The exemption under section 54 and computation of capital gains will be as under:

Long-term capital gains on sale of a residential house on 1-3-2004:			
Sale proceeds of a residential house		Rs. 12,00,000	
Less: Cost of acquisition	Rs. 2,00,000		
Indexed cost of acquisition: Rs. 2,00,000 (cost of acquisition) × 463[36] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 100[36] (being Cost Inflation Index of the financial year of acquisition i.e., 1981-82) i.e., Rs. 2,00,000 × 463 ÷ 100	Rs. 9,26,000		Rs. 2,74,000
Less: Exemption under section 54:			
(1) Amount spent on construction upto 1-7-2004		Rs. 2,00,000	
(2) Amount deposited in specified bank under the scheme on 16-7-2004[37]	Rs. 50,000		Rs. 2,50,000
Long-term capital gain chargeable to tax u/s.112(1)(a)(ii) [Refer item 7 on page 162]			Rs. 24,000

34. For Clarifications issued by the Board vide its Circular No. 743, dt. 6-5-96, refer sub-item G of item G.2 on page 325.

35. Refer footnote No. 23(a) on page 153.

36. For the Notification on Cost Inflation Index, refer page 145/cover page 3.

37. The return of income for the assessment year 2004-05 shall be accompanied by the proof of such deposit.

If, Mr. A had deposited Rs. 74,000 instead of Rs. 50,000, the long-term capital gain would have been nil as explained hereunder:

Long-term capital gains on sale of a residential house on 1-3-2004		Rs. 2,74,000
Less: Exemption under section 54:		
(1) Amount spent on construction upto 1-7-2004	Rs. 2,00,000	
(2) Amount deposited in specified bank under the scheme on 16-7-2004[37a]	Rs. 74,000	Rs. 2,74,000
Long-term capital gains chargeable to income-tax		Rs. Nil

(N) INCOME-TAX EXEMPTION ON DIVIDEND INCOME/LONG-TERM CAPITAL GAINS OF A VENTURE CAPITAL FUND/VENTURE CAPITAL COMPANY:

(1) In respect of investments made on or before 31-3-1999:

[Section 10(23F)]

Section 10(23F) provides for granting of exemption from tax to income by way of dividends or long-term capital gains of a 'venture capital fund' or a 'venture capital company' from investments made by it on or before 31-3-1999 by way of equity shares in a 'venture capital undertaking'. Exemption from tax is subject to the following conditions, that —

(a) the said fund or company should be approved by the prescribed authority in accordance with Rule 2D of the Income-tax Rules, 1962. The approval by the prescribed authority will have effect for not more than three assessment years at a time; and

(b) the said fund or company should satisfy the conditions prescribed in the said Rule 2D.

For the definition of 'venture capital fund', 'venture capital company', 'venture capital undertaking' and 'infrastructure facility' refer *Explanation* to section 10(23F).

(2) In respect of investments made on or after 1-4-1999 but before 1-4-2000:

[Section 10(23FA)]

From assessment year 2000-01 and onwards, section 10(23FA) provides for granting of exemption from tax to income by way of dividends, other than dividends referred to in section 115-O[38], or long-term capital gains of a 'venture capital fund' or a 'venture capital company' from investments made by it by way of equity shares in a 'venture capital undertaking'. Exemption from tax is subject to the condition that such 'venture capital fund'/ 'venture capital company' is approved by the Central Government on an application in Form No. 56AA [in duplicate] made by it in accordance with the rule 2DA therefor. The approval by the Central Government will have effect for not more than three assessment years at a time.

For the definition of 'venture capital fund', 'venture capital company' and 'venture capital undertaking', refer *Explanation* to section 10(23FA).

(3) In respect of investments made on or after 1-4-2000:

[Section 10(23FB) & Chapter XII-F (section 115U)]

From assessment year 2001-02 and onwards, section 10(23FB) provides that any income of a 'venture capital company' or 'venture capital fund' set up to raise funds for investment in a 'venture capital undertaking' is exempt subject to conditions that such 'venture capital company'/'venture capital fund' is registered with the Securities and Exchange Board of India (SEBI) and fulfils the specified conditions issued by SEBI, with the approval of the Central Government, and notified. Further, trust deed of 'venture capital fund' is also to be registered under the Registration Act, 1908. 'Venture capital fund' is defined to mean also to include a fund operating as a venture capital scheme made by the Unit Trust of India. 'Venture capital undertaking'[38a] is defined to mean a domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business for providing services, production or manufacture of an article or thing but does not include such activities or sectors that are specified by SEBI, with the approval of Central Government, and notified. *Explanation 2* to section 10(23FB)[38a] clarifies that the income of a venture capital company (VCC) or venture capital fund (VCF) shall continue to be exempt even if the shares of the venture capital undertaking (VCU) in which the VCC or VCF has made the initial investment, are subsequently listed in a recognised stock exchange in India.

Chapter XII-F (section 115U) provides that any income received by a person out of investments made in a venture capital company (VCC) or a venture capital fund (VCF) will be chargeable to income-tax in the same manner as if it were the income received by such person had he made investments directly in the venture capital undertaking (VCU). The person responsible for making payment of the income on behalf of VCC or

37a. The return of income for the assessment year 2004-05 shall be accompanied by the proof of such deposit.

38. In relation to assessment year 2003-04, for the words "dividends, other than dividends referred to in section 115-O,", read "dividends".

38a. For notes on substitution of clause (c) of the *Explanation* 1 & omission of *Explanation* 2 to section 10(23FB) by the Finance (No. 2) Act, 2004, refer para 2.8 on page 43.

VCF and the VCC or VCF is required to furnish within the time prescribed under Rule 12C (i.e., by the 30th November of the financial year following the previous year during which such income is distributed), to the person receiving such income and to the Chief Commissioner or Commissioner, a statement in the Form No. 64 giving details of the nature of income paid during the previous year and such other relevant details as may be prescribed. The income paid by VCC or VCF shall be deemed to be of the same nature and in the same proportion in the hands of the payee as it had accrued to/received by, the VCC or VCF, during the previous year. The provisions of Chapter XII-D or XII-E or XVII-B shall not apply to the income paid by a VCC or VCF under Chapter XII-E. 'VCC', 'VCF' and 'VCU' shall have the meaning respectively assigned to them in section 10(23FB).

(O) INCOME-TAX EXEMPTION OF INCOME BY WAY OF DIVIDENDS, INTEREST OR LONG-TERM CAPITAL GAINS OF AN INFRASTRUCTURE CAPITAL FUND/INFRASTRUCTURE CAPITAL COMPANY:

[Section 10(23G)]

(1) In respect of investments made on or before 31-5-1998:

From assessment year 1997-98 and onwards, the then clause (23G) of section 10 provides for granting of exemption from tax to income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made on or before 31-5-1998 by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility.

For the definition of 'infrastructure capital fund', 'infrastructure capital company', 'infrastructure facility' and 'long-term finance', refer *Explanation* to the then section 10(23G).

(2) In respect of investments made on or after 1-6-1998:

Substituted clause (23G) of section 10[38b] provides for granting exemption from tax on income by way of dividends, other than dividends referred to in section 115-O[39], interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company [or a co-operative bank, in relation to assessment year 2002-03 and onwards] from investments made on or after 1-6-1998 by way of shares or long-term finance –

(a) in any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(4) or a housing project referred to in section 80-IB(10) [in relation to assessment year 2002-03 and onwards]; or a hotel project or a hospital project [in relation to assessment year 2004-05 and onwards],

(b) in any enterprise wholly engaged in the business of : (1) developing, (2) maintaining and operating, or (3) developing, maintaining and operating any infrastructure facility [in relation to assessment years 2000-01 & 2001-02],

and which has been approved by the Central Government on an application made by it in the prescribed Form No. 56E (in duplicate) and satisfies the prescribed conditions.

For the definition of 'infrastructure capital fund', 'infrastructure capital company', 'infrastructure facility' (upto assessment year 2001-02), 'long-term finance', 'co-operative bank', 'interest', 'hotel project' and 'hospital project', refer *Explanation 1* to substituted section 10(23G).

(P) INCOME FROM GLOBAL DEPOSITORY RECEIPTS CHARGEABLE TO TAX AT LOWER RATE:

[Section 115ACA]

Section 115ACA provides that any income by way of dividends, other than dividends referred to in section 115-O[40] in respect of Global Depository Receipts (GDR) or income by way of long-term capital gains on transfer of GDR of an Indian company or its subsidiary[41], engaged in specified knowledge based industry or service[42], issued in accordance with notified Employees' Stock Option Scheme[43], and purchased in foreign currency by an individual, who is a resident and an employee of such Indian company or an employee of its subsidiary, the income-tax payable on such dividend income is 10% and 10% also on long-term capital gains arising on transfer/ sale of such GDR. No deduction will be allowed to such employee under any other provisions of the Income-tax Act in respect of dividend income/long-term capital gains on GDR. In computing such long-term capital gains, provisions of 1st & 2nd provisos to section 48 will not apply.

38b. For the notes on proviso inserted in section 10(23G) by the Finance (No. 2) Act, 2004, refer para 2.9 page 43.

39. In relation to assessment year 2003-04, for the words "dividends, other than dividends referred to in section 115-O," read "dividends".

40. In relation to assessment year 2003-04, for the words "dividends, other than dividends referred to in section 115-O," read "dividends".

41. "Subsidiary" means subsidiary as defined in section 4 of the Companies Act, 1956 and includes subsidiary incorporated outside India.

42. "Specified knowledge based industry or service" means: (1) information technology software; (2) information technology service; (3) entertainment service; (4) pharmaceutical industry; (5) bio-technology industry; and (6) any other notified industry or service.

43. In relation to assessment year 2001-02 and onwards, notified scheme is "the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993" [Refer 208 ITR (St.) 82] [vide Notification No. 1120(E), dt. 12-11-2001: 252 ITR (St.) 51].

Gross total income of such an employee will be reduced by dividend/long-term capital gains in respect of GDR and deduction under the Income-tax Act will be allowed as if the gross total income as so reduced were the gross total income of such an employee. Total income of such an employee will be reduced by dividend/long-term capital gain on GDR and income-tax will be calculated at rates in force. The aggregate tax payable will be the tax on GDR income and tax on total income as reduced by such GDR income. For the definition of "Global Depository Receipts"; "information technology service"; "information technology software"; and "Overseas Depository Bank", refer *Explanation* to section 115ACA.

7. Tax on long-term capital gains[43a]:

[Section 112]

Where the total (taxable) income includes long-term capital gains, income-tax will be levied on taxable income as reduced by long-term capital gains at the rates specified in the annual Finance Act. The long-term *[and not short-term[43a]]* capital gain will be subjected to flat rate of income-tax under section 112. In the case of all categories of assessees, in relation to assessment years 2001-02 to 2005-06, the flat rate of income-tax is 20%[44] *plus* surcharge on I.T.[45], if any.

However, proviso to section 112(1) provides that in the case of all categories of assessee, where income-tax on long-term capital gains on listed securities/units computed in the normal manner as applicable to gains on other long-term capital assets (that is after indexation of cost of acquisition under 2nd proviso to section 48 and the flat rate of income-tax @ 20% of the gains), exceeds 10% of capital gains on the said securities/units, computed without indexation of cost of acquisition, then such excess shall be ignored. In other words, the rate of income-tax on long-term capital gains arising from transfer of listed securities/units will be 10% of the gains computed without indexation of cost. Further, income-tax computed u/s. 112 is to be increased by a surcharge, if any, at the specified rate, on income-tax so computed [Refer *Example (vii)* on page 163].

"Listed securities" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956[46]; and such securities are listed in any recognised stock exchange in India. "Unit" means unit of a mutual fund specified in section 10(23D) or of the Unit Trust of India.

The Central Board of Direct Taxes have clarified vide its Circular No. 721, dt. 13-9-1995 [215 ITR (St.) 113] that "Only that amount of long-term capital gains which is included in the total income would be subject to tax at a prescribed flat rate u/s. 112". Thus, if there was loss of Rs. 20,000 from business and there is long-term capital gains of Rs. 1,00,000, then after setting off of business loss of Rs. 20,000 against long-term capital gains u/s. 71(2), only Rs. 80,000 [Rs. 1,00,000 long-term capital gains *less* Rs. 20,000 business loss set off u/s. 71(2)] would remain under the head "Capital gains" to be included in the gross total income or total income. The flat rate of tax u/s. 112 will be applicable in respect of Rs. 80,000 and not Rs. 1,00,000, since the amount of long-term capital gains included in the total income is Rs. 80,000.

In the case of individuals & Hindu undivided families where the total (taxable) income as reduced by long-term capital gain, is below the basic exemption limit, the long-term capital gain will be reduced to the extent of the short fall and only the balance long-term capital gain will be subjected to the flat rate of income-tax [Refer *Example (ix)* on page 164].

The deduction under Chapter VI-A will be on gross total income as reduced by the long-term capital gain. In other words, such reduced gross total income will be deemed to be the gross total income of the assessee for the purposes of deductions under Chapter VI-A [Section 112(2)].

The tax rebate u/s. 88 [and not u/s. 88B/88C] *will be on total (taxable) income as reduced by long-term capital gain*. In other words, tax rebate u/s. 88 will be allowed from income-tax computed on such reduced total (taxable) income [Section 112(3)].

It may be noted that the senior citizens who are eligible for rebate of income-tax u/s. 88B and women assessees below age of 65 years who are eligible for rebate of income tax u/s. 88C, such tax rebate u/s. 88B/88C will be allowed from income-tax computed on total (taxable) income *inclusive of long-term capital gain*, as the provisions of section 112(3) are applicable only in respect of tax rebate allowable u/s. 88 and not to tax rebate allowable u/s. 88B/88C.

43a. For the notes on tax on short-term capital gains in certain cases under new section 111A inserted by the Finance (No. 2) Act, 2004, refer para 6.3 on page 46.

44. Long-term capital gains arising on transfer of foreign exchange asset [i.e., specified asset u/s. 115C(f)] is chargeable to income-tax at the flat rate of 10% by way of income-tax in the hands of non-resident Indians [Vide section 115E]. This flat rate of I.T. @ 10% is to be increased by surcharge, if any, at the specified rate.

45. For assessment years 2001-02 to 2005-06, income-tax payable u/s. 112 is to be increased by surcharge, if any, at the specified rate of such income-tax. In the case of a foreign company, income-tax payable u/s. 112 is to be increased by surcharge on such income-tax for assessment years 2003-04 to 2005-06.

46. As per section 2(h) of the Securities Contracts (Regulation) Act, 1956, "securities" includes shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate; Government securities; such other instruments as may be declared by the Central Government to be securities; and rights or interest in securities.

EXAMPLE (vii): Mr. A has sold listed shares of Messrs. X & Co. Ltd. which are listed in Bombay stock exchange for Rs. 50,000 on 10-6-2003. The cost of acquisition of such shares purchased on 9-4-2000 is Rs. 20,300. Income from other sources of Mr. A is Rs. 10,00,000. The tax on long-term capital gain payable u/s. 112(1) by Mr. A for assessment year 2004-05 will be as under:

		COMPUTATION OF INCOME-TAX: *u/s. 112(1)(a)(ii)*		*under proviso to section 112(1)*
Sale proceeds of shares of M/s. X & Co. Ltd. (sold on 10-6-2003)		Rs. 50,000		Rs 50,000
Less: Cost of acquisition of shares purchased on 9-4-2000	Rs. 20,300	—		Rs. 20,300
Indexed cost of acquisition under second proviso to section 48 : Rs. 20,300 (cost of acquisition) × 463[47] (CII of F.Y. of sale i.e., 2003-04) ÷ 406[47] (CII of financial year of purchase i.e., 2000-01)		Rs. 23,150		—
Long-term capital gains chargeable to income-tax		Rs. 26,850		Rs. 29,700
Flat rate of I.T. @ 20% on Rs. 26,850 u/s. 112(1)(a)(ii)	(A)	Rs. 5,370		
Flat rate of I.T. @10% on Rs. 29,700 under proviso to section 112(1).			(B)	Rs. 2,970
As the income-tax on long-term capital gains computed u/s. 112(1)(a)(ii) Rs. 5,370 [Refer (A)] exceeds Rs. 2,970 [Refer (B)] being income-tax on long-term capital gains computed under proviso to section 112(1), excess of Rs. 2,400 is to be ignored and the income-tax payable on long-term capital gains is.				Rs. 2,970
Add: As the total income exceeds Rs. 8,50,000, surcharge @10% on income-tax of Rs. 2,970 [vide Paragraph A of Part I of the First Schedule to the Finance (No. 2) Act, 2004 read with 1st proviso to section 2(3) of the said Act] i.e., 10% on Rs. 2,970				Rs. 297
Tax payable on long-term capital gains u/s. 112(1)				Rs. 3,267

Note: If in the above example, if the said shares had been purchased on 9-4-1993 instead of on 9-4-2000, the indexed cost of acquisition will be Rs. 38,520 (i.e., Rs. 20,300 × 463[47] ÷ 244[47]) and long-term capital gains will be Rs. 11,480 (Rs. 50,000 *less* Rs. 38,520). Flat rate of income-tax @ 20% u/s. 112(1)(a)(ii) on Rs. 11,480 is Rs. 2,296. As Rs. 2,296 does not exceed Rs. 2,970 [being 10% on long-term capital gains Rs. 29,700 (as worked out above)], income-tax payable is Rs. 2,296 which is to be increased by surcharge of Rs. 230 (being 10% of Rs. 2,296 I.T.) and tax payable is Rs. 2,526 (Rs. 2,296 *plus* Rs. 230).

EXAMPLE (viii): For assessment year 2004-05, gross total income of Mr. A is Rs. 1,81,000 which includes long-term capital gain on sale of land Rs. 55,000, short-term capital gain Rs. 10,000 and interest income on fixed deposits with banks Rs. 14,000. Medical insurance premia paid is Rs. 9,000. He has invested Rs. 70,000 in specified savings which qualifies for rebate of (deduction from) income-tax u/s. 88. The computation of taxable income and tax thereon is as under:

Computation of taxable income:

Gross total income inclusive of capital gains			Rs. 1,81,000
Less: Long-term *(and not short-term)* capital gain [which is liable at flat rate of income-tax u/s. 112]			Rs. 55,000
Gross total income as reduced by long-term capital gain			Rs. 1,26,000
Less: Deductions under Chapter VI-A:			
(a) Medical insurance premia paid Rs. 9,000: Deduction u/s. 80D: As the premia does not exceed Rs. 10,000, 100% of the premia paid Rs. 9,000	Rs. 9,000		
(b) Interest income on fixed deposits with banks Rs. 14,000: Deduction u/s. 80L: Maximum deduction u/s. 80L(1) restricted to	Rs. 12,000	Rs. 21,000	
Total (taxable) income (other than long-term capital gain)	(1)	Rs. 1,05,000	
Add: Long-term capital gain	(2)	Rs. 55,000	
Total (taxable) income inclusive of long-term capital gain	(3)	Rs. 1,60,000	

Computation of tax:

(A) Income-tax chargeable on total (taxable) income [other than long-term capital gain] Rs. 1,05,000 [Refer (1)]	Rs. 10,000	
Less: Rebate of (deduction from) income-tax u/s. 88: Investment in specified savings Rs. 70,000: Deduction @ 15%[48] of Rs. 70,000 u/s. 88(1) Rs. 10,500. Amount of deduction u/s. 88 restricted u/s. 87(2) to Rs. 10,000 being amount of income-tax chargeable on Rs. 1,05,000 total (taxable) income (other than long-term capital gain).	Rs. 10,000	
Income-tax on total (taxable) income (other than long-term capital gain)	Rs. Nil	Rs. Nil
Carried over		Rs. Nil

47. For the Notification on Cost Inflation Index, refer page 145 /cover page 3.

48. As the gross total income inclusive of capital gains exceeds Rs. 1,50,000 but does not exceed Rs. 5,00,000, rebate u/s. 88 is @ 15%, instead of @ 20%, of specified savings.

		Brought over . .	Rs.	Nil
(B)	Income-tax @ 20% u/s. 112 [*plus* S.C. on I.T.) 'nil'[49] on Rs. 55,000 [Refer (2)]		Rs.	11,000
	Income-tax payable on total (taxable) income of Rs. 1,60,000 [Refer (3)]		Rs.	11,000

Note: Deduction under Chapter VI-A will be on gross total income as reduced by long-term capital gain [Section 112(2)]. The tax rebate u/s. 88 will be on taxable income as reduced by long-term capital gain [Section 112(3)].

I. In the *Example* on page 163, if Mr. A had attained age of 65 years on or before 31-3-2004, then he will also be entitled to rebate of (deduction from) income-tax u/s. 88B. After availing rebate of (deduction from) income-tax u/s. 88 & 88B, the tax payable by him will be as under:

(1)	Income-tax payable [before allowing rebate u/s. 88 & 88B as worked out above Rs. 10,000 (Refer A) *plus* Rs. 11,000 I.T. @ 20% on Rs. 55,000 (Refer B)] . .			Rs.	21,000
(2)	(a) Rebate of (deduction from) income-tax u/s. 88B: @ 100% of tax payable subject to a limit of Rs. 20,000			Rs.	20,000
	(b) Rebate of (deduction from) income-tax u/s. 88: @ 15%[50] of specified savings Rs. 70,000	Rs.	10,500		
	Amount of deduction is to be restricted to income-tax payable on income exclusive of long-term capital gain i.e., I.T. on Rs. 1,05,000 is Rs. 10,000 . .			Rs.	10,000
	Aggregate of rebates u/s. 88 & 88B			Rs.	30,000
(3)	Under section 87(2), the aggregate of rebates u/s. 88 & 88B should not exceed income-tax payable on total (taxable) income i.e., Rs. 21,000 [Refer (1)] . . .			Rs.	21,000
(4)	Income-tax payable by Mr. A, (1) *less* (3) [Rs. 21,000 *less* Rs. 21,000]			Rs.	Nil

II. In the *Example* on page 163, if the total income had been of a woman assessee who is below the age of 65 years as on 31-3-2004, then she will also be entitled to rebate of (deduction from) income-tax u/s. 88C. After availing rebate of (deduction from) income-tax u/s. 88 & 88C, the tax payable by her will be as under:

(1)	Income-tax payable [before allowing rebate u/s. 88 & 88C as worked out on page 163 Rs. 10,000 (Refer A) *plus* Rs. 11,000 I.T. @ 20% on Rs. 55,000 (Refer B)]			Rs.	21,000
(2)	(a) Rebate of (deduction from) income-tax u/s. 88C: @ 100% of tax payable subject to a limit of Rs. 5,000			Rs.	5,000
	(b) Rebate of (deduction from) income-tax u/s. 88: @ 15%[50] of specified savings Rs. 70,000	Rs.	10,500		
	Amount of deduction is to be restricted to income-tax payable on income exclusive of long-term capital gain i.e., I.T. on Rs. 1,05,000 is Rs. 10,000 . .			Rs.	10,000
	Aggregate of rebates u/s. 88 & 88C.			Rs.	15,000
(3)	Income-tax[51] payable by a woman assessee (1) *less* (2) [Rs. 21,000 *less* Rs. 15,000] . .			Rs.	6,000

Notes: 1. Deduction from income-tax u/s. 88B/88C is to be first availed of before availing deduction from income-tax u/s. 88 (Refer section 88B/88C).

2. Deduction from income-tax u/s. 88B/88C (and not u/s. 88) is allowable even on income-tax payable on total (taxable) income inclusive of long-term capital gain [Vide section 112(3)].

EXAMPLE (ix): For assessment year 2004-05, total income of Mr. A is Rs. 55,000 which includes long-term capital gain on sale of land Rs. 15,000.

Total income [inclusive of long-term capital gain Rs. 15,000]	Rs.	55,000
Less: Long-term capital gain on sale of land	Rs.	15,000
Total income as reduced by long-term capital gain	Rs.	40,000
Basic exemption limit for assessment year 2004-05	Rs.	50,000

49. As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax payable is 'nil'.

50. As the gross total income inclusive of capital gains exceeds Rs. 1,50,000 but does not exceed Rs. 5,00,000, rebate u/s. 88 is @ 15%, instead of @ 20%, of specified savings.

51. As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax payable is 'nil'.

Long-term capital gain	Rs.	15,000
Less: Short fall [Rs. 50,000 (basic exemption limit) *less* Rs. 40,000 (other income)]	Rs.	10,000
Long-term capital gain chargeable to income-tax [Vide proviso to section 112(1)(a)]	Rs.	5,000
Income-tax on long-term capital gain Rs. 5,000 @ 20% u/s. 112(1)(a)(ii)	Rs.	1,000

Notes: (1) In this *Example*, if the total income consisted only of long-term capital gain of Rs. 55,000, then also only Rs. 5,000 will be subjected to income-tax at the flat rate of 20%, after allowing basic exemption of Rs. 50,000.

(2) In this *Example* if Mr. A is eligible for rebate of income-tax u/s. 88B, income-tax on long-term capital gain payable by him would be Rs. 'nil' [Rs. 1,000 income-tax as computed in *Example less* Rs. 1,000 (being rebate of income-tax u/s. 88B @ 100% of Rs. 1,000 subject to a limit of Rs. 20,000)].

(3) In this *Example*, in the case of a woman assessee who is below the age of 65 years as on 31-3-2004, income-tax on long-term capital gain payable by her would be Rs. 'nil' [Rs. 1,000 income-tax as computed in *Example less* Rs. 1,000 (being rebate of income-tax u/s. 88C @ 100% of Rs. 1,000 subject to a limit of Rs. 5,000)].

EXAMPLE (x): For assessment year 2004-05, Mr. A who has attained age of 65 years as on 31-3-2004, has gross total income of Rs. 1,88,000 which includes interest on fixed deposits with banks Rs. 8,000, interest from private parties Rs. 75,000 and long-term capital gain on sale of land Rs. 1,05,000. He has invested Rs. 30,000 in National Savings Certificates VIIIth Issue on 1-1-2004. The tax payable by him after availing of rebate of (deduction from) income-tax u/s. 88 and 88B is as under:

Computation of taxable income:

Gross total income inclusive of long-term capital gain			Rs.	1,88,000
Less: Long-term capital gain [which is liable to tax at flat rate of income-tax u/s. 112]			Rs.	1,05,000
Gross total income as reduced by long-term capital gain			Rs.	83,000
Less: Deduction under Chapter VI-A:				
Deduction u/s. 80L(1):				
Interest on fixed deposits with banks			Rs.	8,000
Taxable income (other than long-term capital gain)	(1)		Rs.	75,000
Add: Long-term capital gain	(2)		Rs.	1,05,000
Total (taxable) income inclusive of long-term capital gain	(3)		Rs.	1,80,000

Computation of tax:

Income-tax chargeable on total (taxable) income (other than long-term capital gain) Rs. 75,000 [Refer (1)]	(4)		Rs.	4,000
Add: Income-tax @ flat rate of 20% on long-term capital gain of Rs. 1,05,000 [Refer (2)] u/s. 112(1)(a)(ii)	(5)		Rs.	21,000
Income-tax on total (taxable) income of Rs. 1,80,000 [Refer (3)]			Rs.	25,000
Less: (A) Rebate of (deduction from) income-tax u/s. 88B:				
100% of tax payable subject to a limit of Rs. 20,000			Rs.	20,000
Income-tax payable after availing rebate of (deduction from) income-tax u/s. 88B			Rs.	5,000
(B) Rebate of (deduction from) income-tax u/s. 88:				
Investment in NSC VIII Issue		Rs. 30,000		
Rebate of (deduction from) income-tax @ 15%[52] of Rs. 30,000		Rs. 4,500		
Amount of rebate of (deduction from) income-tax u/s. 88 is to be allowed on income-tax chargeable on total (taxable) income [other than long-term capital gains] Rs. 75,000 i.e., Rs. 4,000 [Refer (4)] [Vide section 112(3)]		Rs. 4,000		
As rebate of (deduction from) income-tax u/s. 88 Rs. 4,500 exceeds Rs. 4,000, the rebate (deduction) u/s. 88 is to be restricted to			Rs.	4,000
(C) Income-tax[53] payable on total (taxable) income of Rs. 1,80,000 [Refer (3)]			Rs.	1,000

Note: In the above *Example*, in the case of a woman assessee who is below the age of 65 years as on 31-3-2004, rebate of income-tax u/s. 88C is Rs. 5,000 (as against Rs. 20,000 u/s. 88B) and income-tax payable would be Rs. 16,000 [Rs. 25,000 *less* Rs. 5,000 (rebate of income-tax u/s. 88C) = Rs. 20,000 *less* Rs. 4,000 (rebate of income-tax u/s. 88) = Rs. 16,000].

52. As the gross total income inclusive of long-term capital gain exceeds Rs. 1,50,000 but does not exceed Rs. 5,00,000, rebate u/s. 88 is @ 15%, instead of @ 20%, of specified savings.

53. As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax payable is 'nil'.

MARKET QUOTATION OF GOLD, SILVER AND UNITS:

FOR ASSESSMENT YEAR 1993-94 & ONWARDS

Rate as on 1-4-1981

Gold Standard 24 Carats[1]	Rs. 1,670.00[2]	for 10 grams
Silver 9990 Touch[1]	Rs. 2,715.00	for 1 Kg.
Unit Scheme, 1964 of Unit Trust of India	Rs. 12.10	for 1 unit
Unit Linked Insurance Plan of Unit Trust of India	Rs. 11.25	for 1 unit

NOTES: 1. The quotation of equity shares as on 1-4-1981 in respect of assessment year 1993-94 and onwards is given on pp. 170-177 of this ITRR;

2. In cases where bonus shares or right shares are issued prior to 1-4-1981 or thereafter, refer *Examples* given hereunder for computation of long-term capital gains in relation to assessment year 1996-97 and subsequent years.

Deemed cost for the purposes of "Capital gains"

Assessment year 2001-02 & onwards:

Example in respect of right of substitution of the fair market value as on 1-4-1981:

Under section 55(2), where the capital asset became the property of the assessee before the 1st day of April, 1981, the assessee has the option of substituting the fair market value as on 1-4-1981, in place of the original cost for the purposes of "Capital gains".

EXAMPLE: It is assumed that Mr. A sold the following listed shares on 19th July, 2003. His total income excluding long-term capital gain is Rs. 2,00,000.

Name of the Co.	*Purchased on*	*Cost price*	*Market value as on 1-4-1981*	*Sale price received on 19th July, 2003*	*Difference between cost price & sale price*
A & Co. Ltd.	30-12-70	Rs. 30,000	Rs. 60,000	Rs. 2,90,000	Rs. 2,60,000
B & Co. Ltd.	12-11-72	Rs. 10,000	Rs. 20,000	Rs. 1,00,000	Rs. 90,000
C & Co. Ltd.	16-5-90	Rs. 18,200	Rs. 25,000	Rs. 50,000	Rs. 31,800
Total		Rs. 58,200		Rs. 4,40,000	Rs. 3,81,800

In the above example "Capital gains" is to be computed as under:

Name of the Co.	*Sale proceeds 1*	*Cost of shares 2*	*Market value as on 1-4-1981 3*	*Indexed cost of acquisition 4*	*Long-term capital gains (1 less 4) 5*
A & Co. Ltd.	Rs. 2,90,000	—	Rs. 60,000[3]	Rs. 2,77,800[4]	Rs. 12,200
B & Co. Ltd.	Rs. 1,00,000	—	Rs. 20,000[3]	Rs. 92,600[5]	Rs. 7,400
C & Co. Ltd.	Rs. 50,000	Rs. 18,200[6]	—	Rs. 46,300[7]	Rs. 3,700
Total	Rs. 4,40,000			Rs. 4,16,700	Rs. 23,300

Income-tax @ flat rate of tax @ 20% on long-term capital gains of Rs. 23,300 u/s. 112(1)(a)(ii)	Rs. 4,660
Income-tax @ 10% on long-term capital gains of Rs. 3,41,800 [Rs. 4,40,000 sale proceeds *less* Rs. 98,200 (Rs. 60,000 FMV+Rs. 20,000 FMV+Rs. 18,200 cost) (without indexation) under proviso to section 112(1)	Rs. 34,180
As the income-tax payable u/s. 112(1)(a)(ii) Rs. 4,660 does not exceed Rs. 34,180 under proviso to section 112(1), provision of the said proviso will not apply and income-tax on long-term capital gains payable u/s. 112(1)(a)(ii) is	Rs. 4,660
Add: As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax payable is 'nil'	Rs. Nil
Income-tax payable on long-term capital gains of Rs. 23,300 u/s. 112(1)(a)(ii)	Rs. 4,660

Note: It is assumed that none of the above companies have issued either bonus shares or right shares from 1-4-1981 to 19-7-2003.

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1. *Source:* The Bombay Bullion Association Ltd.
2. The rate of standard gold as stated above is for 24 Carats. Since the gold ornaments are made of 22 Carats, % to be deducted in this respect is given on page 276.
3. Mr. A is entitled to take advantage of the appreciation in price as on 1-4-1981 and claim the cost of acquisition at such appreciated value whereby the capital gains will be reduced as shown in respect of shares of A & Co. Limited and B & Co. Limited.
4. Indexed cost of acquisition is Rs. 2,77,800 [Rs. 60,000 (FMV) x 463[8] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷100[8] (being Cost Inflation Index of the financial year 1981-82)].
5. Indexed cost of acquisition is Rs. 92,600 [Rs. 20,000 (FMV) x 463[8] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 100[8] (being Cost Inflation Index of the financial year 1981-82)].
6. As the shares are purchased after 1-4-1981, Mr. A is not entitled to substitute the market value as on 1-4-1981.
7. Indexed cost of acquisition is Rs. 46,300 [Rs. 18,200 (cost of acquisition) x 463[8] (being Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 182[8] (being Cost Inflation Index of the financial year of acquisition i.e., 1990-91)].
8. For Notification on Cost Inflation Index, refer page 145 /cover page 3.

BONUS SHARES

EXAMPLE (i): Mr. A's investment portfolio of shares of Messrs. B & Co. Ltd. is as under:

Date	*No. of shares*	*Rate per share*	*Total cost*	*Remarks*
30-6-1970	100	Rs. 350	Rs. 35,000	Actual purchase
30-9-1978	50	—	—	Bonus in ratio of 1:2
	150		Rs. 35,000	
1-12-1987	150	—	—	Bonus in ratio of 1:1
Total . .	300		Rs. 35,000	

Mr. A sold these 300 shares on 31-7-2003 @ Rs. 900 per share.

Total sale price of 300 shares @ Rs. 900 per share	Rs. 2,70,000
Less: Cost price of 300 shares	Rs. 35,000
Profit on sale of 300 shares	Rs. 2,35,000
Mr. A's total income excluding long-term capital gain is	Rs. 2,00,000

COMPUTATION OF LONG-TERM CAPITAL GAINS:

Sale proceeds of 300 shares @ Rs. 900 per share	Rs. 2,70,000
Less: Indexed cost of acquisition as computed hereafter	Rs. 2,31,500
Long-term capital gains	Rs. 38,500

COMPUTATION OF TAX ON LONG-TERM CAPITAL GAINS U/S. 112(1):

Income-tax @ flat rate of tax @ 20% on long-term capital gain of Rs. 38,500 u/s. 112(1)(a)(ii) . .	Rs. 7,700
Income-tax @ 10% on long-term capital gain of Rs. 2,20,000 [Rs. 2,70,000 *less* Rs. 50,000 [Rs. 35,000 cost of 100 shares *plus* Rs. 15,000 (FMV per share as on 1-4-1981 @ Rs. 300 per share) in respect of 50 bonus shares allotted on 30-9-1978 (without indexation of cost)] under proviso to section 112(1) . .	Rs. 22,000
As the income-tax payable u/s. 112(1)(a)(ii) Rs. 7,700 does not exceed Rs. 22,000 under proviso to section 112(1), provision of the said proviso will not apply and income-tax on long-term capital gains payable u/s. 112(1)(a)(ii) is	Rs. 7,700
Add: As the total income does not exceed Rs. 8,50,000, surcharge on income-tax payable is 'nil' . .	Rs. Nil
Income-tax payable on long-term capital gains of Rs. 38,500 u/s. 112(1)(a)(ii)	Rs. 7,700

COMPUTATION OF INDEXED COST OF ACQUISITION:

1.	Actual cost of 300 shares [as per books]	Rs. 35,000
2.	Fair market value (FMV) per share as on 1-4-1981	Rs. 300

3. Indexed cost of acquisition [Vide 2nd proviso to section 48]:

No. of shares	Date of acquisition	Cost of acquisition	F.M.V. as on 1-4-1981		Cost Inflation Index Factor[9]				Indexed cost
100	30-6-1970	Rs. 35,000	Refer[10]	×	463[9] (year of sale)	÷	100[9] (as on 1-4-1981)	=	Rs. 1,62,050
50	30-9-1978	Rs. Nil[11]	Rs. 15,000[12]	×	463[9] (year of sale)	÷	100[9] (as on 1-4-1981)	=	Rs. 69,450
150	1-12-1987	Rs. Nil[11]	Rs. Nil[13]	×	N.A.[13]			=	Rs. [13]Nil
300	Indexed cost of acquisition of 300 shares								Rs. 2,31,500

9. For Notification on Cost Inflation Index, refer page 145 /cover page 3.

10. As the cost of acquisition of 100 shares Rs. 35,000 exceeds Rs. 30,000 (100 shares × Rs. 300 per share, being FMV as on 1-4-1981), cost of acquisition is taken instead of FMV for the purpose of indexed cost.

11. Cost of acquisition of bonus shares is to be taken as 'nil' vide section 55(2)(aa)(iiia).

12. Since 50 bonus shares have been allotted on 30-9-1978, i.e., prior to 1-4-1981, FMV as on 1-4-1981 Rs. 15,000 (50 shares × Rs. 300 per share) is taken for the purpose of indexed cost.

13. As the 150 bonus shares have been allotted on 1-12-1987 i.e., on or after 1-4-1981, FMV as on 1-4-1981 cannot be adopted. Since cost of such bonus shares is 'nil' vide section 55(2)(aa)(iiia), indexed cost also will be 'nil'.

Note: In *Example,* (i) on page 167, instead of 300 shares, if Mr. A had sold only 100 shares acquired on 30-6-1970, the long-term capital loss would be as under:

Sale proceeds of 100 shares @ Rs. 900 per share	Rs.	90,000
Less: Indexed cost of acquisition as worked out on page 167	Rs.	1,62,050
Long-term capital loss	Rs.	72,050

This long-term capital loss can be set off only against current year's long-term capital gain in respect of other capital asset. Unabsorbed loss can be carried forward for set off for eight succeeding assessment years [Section 70(3)].

RIGHT SHARES[14]

EXAMPLE (ii):

(1) Mr. A's investment portfolio of shares of Messrs. A & Co. Ltd. is as under:

Date	*No. of shares*	*Cost per share*	*Total cost*	*Remarks*
1-3-1978	500	Rs. 200	Rs.1,00,000	Actual purchase
1-2-1980	500	Rs. 100	Rs. 50,000	Right @ 1:1
Total	1,000		Rs.1,50,000	

(2) The fair market value (FMV) per share as on 1-4-1981 is	Rs.	250
(3) These 1,000 shares were sold on 2-8-2003 @ Rs. 1,200 per share	Rs.	12,00,000
(4) Mr. A's total income excluding long-term capital gain is	Rs.	10,00,000
Sale proceeds of 1,000 shares @ Rs. 1,200 per share	Rs.	12,00,000

Less: Indexed cost of acquisition [Vide 2nd proviso to section 48]:

No. of shares	Date of acquisition	Cost of acquisition	F.M.V. as on 1-4-1981		Cost Inflation Index Factor[15]			Indexed cost	
500	1-3-1978	Rs. 1,00,000	Rs. 1,25,000[16]	×	463[15] (year of sale)	÷	100[15] (as on 1-4-1981)	Rs. 5,78,750	
500	1-2-1980	Rs. 50,000	Rs. 1,25,000[16]	×	463[15] (year of sale)	÷	100[15] (as on 1-4-1981)	Rs. 5,78,750	
									Rs. 11,57,500

Long-term capital gain	Rs.	42,500
Income-tax @ flat rate of tax @ 20% on long-term capital gain of Rs. 42,500 u/s. 112(1)(a)(ii)	Rs.	8,500
Income-tax @ 10% on long-term capital gain of Rs. 9,50,000 [Rs. 12,00,000 sale proceeds *less* Rs. 2,50,000 (FMV Rs. 1,25,000 in respect of 500 shares purchased on 1-3-1978 + FMV Rs. 1,25,000 in respect of 500 right shares acquired on 1-2-1980) (no indexation)] under proviso to section 112(1)	Rs.	95,000
As the income-tax payable u/s. 112(1)(a)(ii) Rs. 8,500 does not exceed Rs. 95,000 under proviso to section 112(1), provision of the said proviso will not apply and income-tax on long-term capital gain payable u/s. 112(1)(a)(ii) is	Rs.	8,500
Add: As the total income exceeds Rs. 8,50,000, surcharge @ 10% of I.T. Rs. 8,500 [Vide Paragraph A of Part I of the First Schedule to the Finance (No. 2) Act, 2004 read with 1st proviso to section 2(3) of the said Act]	Rs.	850
Tax payable on long-term capital gains of Rs. 42,500 u/s. 112(1)(a)(ii)	Rs.	9,350

14. For determining the cost of right shares and computation of capital gain where the right shares are renounced, refer illustration on page 148.

15. For Notification on Cost Inflation Index, refer page 145 /cover page 3.

16. As the FMV Rs. 1,25,000 (500 shares × Rs. 250 per share) as on 1-4-1981 exceeds cost of acquisition Rs. 1,00,000 being shares acquired on 1-3-1978 and Rs. 50,000 being shares acquired on 1-2-1980, FMV as on 1-4-1981 is taken for the purpose of indexed cost.

LIST OF BSE - 500 INDEX OF THE STOCK EXCHANGE, MUMBAI AS ON 1-3-2003:

FOR THE PURPOSE OF AVAILING EXEMPTION U/S. 10(36) IN RESPECT OF LONG TERM CAPITAL GAINS:
[Source: Information issued by BSE Investor Protection Fund vide Economic Times, Mumbai, dt. 21-5-2003]

Aarti Industries
Aban Lloyd Chiles Offshore
Abbott India
Adani Exports
AFT Industries
Aftek Infosys
Agro Dutch Industries
Agro Tech Foods
Ahmedabad Electricity
Ajanta Pharma
Aksh Optifibre
Albright & Wilson Chemicals
Alembic
Alfa Laval (India)
Alps Industries
Alstom
Alstom Power India
Amara Raja Batteries
Ambalal Sarabhai Enterp.
Amtex Hitachi Appliances
Andhra Bank
Apollo Hospitals Enterprises
Apollo Tyres
Archies Greetings & Gifts
Arvind Mills
ASEA Brown Boveri
Ashima
Ashok Leyland Finance
Ashok Leyland
Asian Hotels
Asian Paints (I)
Assam Company
Associated Cement Companies
Astrazeneca Pharma
Atcom Technologies
Atlas Copco (India)
Atul
Aurobindo Pharma
Automotive Axles
Aventis Cropscience India
Aventis Pharma
Avon Organics
Aztec Software & Techno.Services

BOC
Bajaj Auto Finance
Bajaj Auto
Bajaj Hindustan
Balaji Distilleries
Balaji Telefilms
Ballarpur Industries
Balrampur Chini Mills
Bank of Baroda
Bank of India
Bank of Punjab
Bannari Amman Sugars
BASF India
Bata India
Bayer (I)
Bayer ABS
Berger Paints India
Bharat Earth Movers
Bharat Electronics
Bharat Forge
Bharat Heavy Electricals
Bharat Petroleum Corpn.
Bharti Tele Ventures
Bhartiya International
Bhushan Steel & Strips
Binani Industries
Birla 3M
Birla Corporation
Birla Erricsons Opticals
Birla Global Finance
Blow Plast
Blue Dart Express
Blue Star
Bombay Burmah Trg. Corpn.
Bombay Dyeing & Mfg. Co.
BPL
Britannia Industries
BSES
Burroughs Wellcome (India)

C G Igarashi Motors
Cadila Healthcare
Carborundum Universal
Carrier Aircon
Castrol
Ceat
Centurion Bank
Century Enka
Century Textiles Ind.
CESC
Chambal Fertilisers & Chem.
Chemplast Sanmar
Chennai Petroleum Corporation
Ciba Specialty Chem.
Cinevistaas
Cipla
Clariant (India)
C-Mac Centum Electronics
CMC
Coates of India
Colgate Palmolive (India)
Colour Chem
Computech International
Container Corporation of India
Core Healthcare
Corporation Bank
Credit Rating Info. Serv. of India
Crest Communication
Crompton Greaves
Cummins India
Cybertech Systems & Software

Dabur India
Daewoo Motors (India)
Dalmia Cements (Bharat)
Deepak Fert. & Petro.
Dena Bank
Digital Globalsoft
Dr. Reddy's Laboratories
Dredging Corporation of India
DSQ Software
Duphar- Interfran

E.I.D. Parry (I)
Eicher Motors
EIH
Elbee Services
Elder Pharmaceuticals
Electrolux Kelvinator
Electrosteel Castings
Elgi Equipments
EMCO
Engineers India
Esab India
Escorts
E-Serve International
Eskay K'n'it (India)
Essar Oil Ind.
Essar Shipping
Essar Steel
Essel Propack
ETC Networks
Eveready Industries (I)
Excel Industries
Exide Industries Co.

F D C
Fag Bearings India
FCL Technologies & Products
Federal Bank
Finolex Cables
Finolex Industries
Flex Industries
Floatglass India
Forbes Gokak
Foseco India
Fulford (I)

Gail (India)
Gammon India
Geometric Software Solutions
George Williamson (Assam)
German Remedies
Gesco Corporation
Gillette India
Glaxo
Glaxosmithkline Consumer Healthcare
Glenmark Pharmaceuticals
Global Trust Bank
Godfrey Phillips India
Godrej Consumer Products
Godrej Industries
Goetze (I)
Goldiam International
Goodlas Nerolac Paints
Goodricke Group
Goodyear India
Grasim Industries
Great Eastern Shipping
Greaves
Grindwell Norton
GTL
Gujarat Alkalies & Chem.
Gujarat Ambuja Cements
Gujarat Fluorochemicals
Gujarat Gas Company
Gujarat Heavy Chemicals
Gujarat Industries Power
Gujarat Mineral Development Corpn.
Gujarat Narmada Val. Fer.
Gujarat Sidhee Cement
Gujarat State Fertilisers

H.E.G.
Havell's India
HCL Infosystems
HCL Technologies
HDFC Bank
Henkel Spic India
Hero Honda Motors
Hikal
Himachal Futuristic Comm.
Himatsingka Seide
Hind. Lever Chemicals
Hindalco Industries
Hindustan Construction
Hindustan Inks & Resins
Hindustan Lever
Hindustan Machine Tools
Hindustan Motors
Hindustan Oil Exploration
Hindustan Organic Chem.
Hindustan Petroleum Corp.
Hindustan Powerplus
Hindustan Sanitaryware & Inds.
Hindustan Zinc
Honda Siel Power Products
Hotel Leela Venture
Housing Development Fin.Corpn.
Hughes Software Systems

I P Rings
IBP Co.
ICI India
ICICI Bank
IDBI Bank
IFCI
India Cements
India Glycols
India Gypsum
Indian Aluminium
Indian Hotels Co.
Indian Oil Corporation
Indian Overseas Bank
Indian Petrochemicals Corp.
Indian Rayon & Industries
Indo Gulf Corporation
Indo National
Indo Rama Synthetics (I)
Indraprastha Medical Corpn.
Indusind Bank
Industrial Dev. Bank of India
Information Technologies (I)
Infosys Technologies
Infotech Enterprises
Ingersoll - Rand (India)
Insilco
IPCA Laboratories
Ispat Industries
ITC Hotels
ITC
ITI
IVRCL Infrastructures & Projects

J. B. Chemicals & Pharma
Jagatjit Industries
Jaiprakash Industries
Jayant Agro Organics
Jayshree Tea & Industries
JCT
Jindal Iron & Steel
Jindal Photo Films
Jindal Steel & Powers
Jindal Strips
Jindal Vijayanagar Steel
JK Corporation
JK Industries
Jubilant Organosys
Jupiter Bioscience
Jyoti Structures

K S B Pumps
Kajaria Ceramics
Kale Consultants
Kalpataru Power Transmission
Kalyani Steels
Kanoria Chemicals & Inds.
KDL Biotech
KEC International
Kesoram Industries
Kinetic Motor
Kirloskar Oil Engines
Kochi Refineries
Kodak India
Kopran
Kotak Mahindra Finance
Kothari Products
Krebs Biochemicals
Krishna Lifestyle Technologies
Krone Communications

Lakhani India
Lakshmi Machine Works
Larsen & Toubro
LIC Housing Finance
Lloyds Steel Industries
LML
Lupin

Macmillan India
Madras Aluminium
Madras Cements
Madura Coats
Mahanagar Telephone Nigam
Maharashtra Seamless
Mahavir Spg. Mills
Mahindra & Mahindra
Mangalore Chemicals & Fert.
Mangalore Refinery & Petro.
Maral Overseas
MARICO Industries
Mascon Global
Mascot Systems
Mastek
Matsushita Television & Audio India
Max India
Mcdowell & Co.
Merck
Mid-Day Multimedia
Mirc Electronics
Mirza Tanners
Modi Rubber
Monsanto India
Morepen Laboratories
Moser Baer India
Motherson Sumi Systems
Motor Industries
Mphasis BFL
MRF
Mro-Tek
Mukand Engineers
Mukand
Mukta Arts
Munjal Showa
Mysore Cements

Nagarjuna Fertilz. & Chem.
Nahar Exports
Nahar Spinning Mills
Narmada Chematur Petrochem.
Nath Seeds
National Aluminium
National Organic Chemicals Inds.
Navneet Publications
Nelco
Nestle India
Neyveli Lignite Corpn.
Nicholas Piramal India
NIIT
Nilkamal Plastics
Nirma
Novartis India
NRB Bearings

Oil Country Tubular
ONGC Corpn.
Onward Technologies
Orchid Chemicals Pharma.
Oriental Bank of Commerce
Oriental Hotels
Oswal Agro Mills
Oswal Chemicals & Fertilizers

Panacea Biotec
Paper Products
Parekh Platinum
Parke Davis (India).
Pentamedia Graphics
Pentasoft Technologies
Pfizer
Pharmacia Healthcare
Phillips India
Pidilite Industries
PNB Gilts
Polaris Software Lab
Prism Cement
Priyadarshini Cement
Procter & Gamble Hygiene & Health
PSI Data Systems
PSL Holdings
Punjab Anand Lamp Ind.
Punjab Communications
Punjab National Bank
Punjab Tractors

Rain Calcining
Rallis India
Rama Newsprint & Papers
Ramco Systems
Ranbaxy Laboratories
Rashtriya Chem. & Fert.
Rayban Sun Optics India
Raymond
Reliance Capital
Reliance Industrial Infrastructure
Reliance Industries
Revathi CP Equipments
Rolta India
Roofit Industries
RPG Cables
RPG Life Sciences
RS Software (India)
Ruchi Soya Industries

Saint-Gobain Sekurit India
Salora International
Samtel Colour
Saregama India
Satyam Computer Services
Saw Pipes
Sesa Goa
Shasun Chemicals & Drugs
Shaw Wallace & Co.
Shipping Corpn. of India
Shree Cements
Shree Rama Multi-Tech
Shyam Telecom
Siemens
Siltap Chemicals
Silverline Industries
Skanska Cementation India
SKF Bearings
Snowcem India
Sonata Software
Southern Petro. Inds. Corpn.
SRF Ltd.
Sri Adhikari Brother T.V. Network
SSI Ltd.
State Bank of India
Steel Authority of India
Sterling Biotech
Sterlite Optical Technol's
Subex Systems
Sun Earth Ceramics
Sun Pharmaceutical Inds.
Sundaram Clayton
Sundaram Fastners
Supreme Industries
Supreme Petrochem
Su-Raj Diamonds (I)
Suven Pharmaceuticals
Swaraj Engines
Swaraj Mazda
Syngenta India

Tamil Nadu Newsprint & Papers
Tamilnadu Petroproducts
Tata Chemicals
Tata Elxsi
Tata Engg. & Loco.
Tata Finance
Tata Honeywell
Tata Infomedia
Tata Infotech
Tata Investment Corporation
Tata Iron & Steel
Tata Power
Tata Tea
Tata Telecom
Tata Teleservices (MAH.)
Television Eighteen India
Thermax
Thirumalai Chemicals
Thomas Cook (India)
Timex Watches
Timken India
Tips Industries
Titan Industries
Torrent Pharma
Tourism Finance Corpn. of India
Trent
Trigyn Technologies
Tube Investments of India
TVS Electronics
TVS Suzuki

Ultra Marine & Pigments
Unichem Laboratories
Union Bank
Unitech
United Breweries
United Phosphorus
Usha Beltron
UTI Bank

V.I.P. Industries
Vardhaman Spg. & Gen. Mills
Varun Shipping
Vashisti Detergents
Venkey's (I)
Vesuvius India
Videocon Appliances
Videocon International
Videsh Sanchar Nigam
Vikas WSP
Vindhya Telelinks
Visualsoft (India)
Voltas
VST Industries
Vysya Bank

Warren Tea
Wartsila India
Welspun Gujarat Stahl Rohren
Welspun India
Whirpool of India
Widia (I)
Wimco
Wipro
Wockhardt Life Science
Wockhardt
Wyeth Lederle

Yokogawa Blue Star

Zandu Pharma Works
Zee Telefilms
Zensar Technologies
Zuari Industries

Equity Shares

Quotations for the purpose of substituting fair market value in respect of computation of "CAPITAL GAINS"

In relation to assessment year 1993-94 and onwards[1]

QUOTATIONS AS ON 1st APRIL, 1981

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	**A.** K. Corpn.	C	16.87
10	A. P. V. Engineering	C	12.87
10	A. V. Thomas (A)	M	29.00
10	A. V. Thomas (India)	M	15.00
10	ABS Plastics	A	9.25
10	ABS Plastics	B	9.25
10	Abrasives & Castings	B	3.00
10	Accauto Mktg.	C	2.31
10	Ace Trading	B	10.00
100	Adarsh Chemicals	B	240.00
10	Adarsh Comm.	C	10.06
10	Aditya Mills	B	16.00
10	Aditya Mills	C	12.87
10	Admire Inv.	C	2.75
10	Aegis Chemicals	A	21.00
10	Aegis Chemicals	B	21.25
10	Aegis Chemicals	D	18.00
100	Afsons Ind. Corpn.	B	100.00
10	Agarpara Jute	C	8.37
10	Agarwal Steel	B	2.00
10	Agarwal Steel	C	6.00
10	Agro Cargo	M	8.00
10	Agro Extracts	Bg.	9.00
100	Ahmedabad Advance	B	255.00
250	Ahmedabad Cotton	A	232.50
100	Ahmedabad Elec.	A	74.00
100	Ahmedabad Elec.	B	73.00
125	Ahmedabad Victoria Iron	A	220.00
100	Ahmedpur Katwa Rlys.	C	13.00
100	Ahura Welding	M	100.00
100	Air Control	A	77.00
100	Air Control	B	55.00
10	Air Reduction Co.	D	8.00
10	Ajanta Textile	C	7.06
10	Ajanta Textile	D	8.50
10	Ajanta Tubes	D	18.75
10	Ajay Inv.	C	10.06
10	Ajay Paper	C	13.00
100	Ajit Mills	A	227.50
10	Akkamamba Mill	M	8.25
2	Alageswar Tea	M	4.75
10	Albion Plywood	D	7.00
50	Albright Morarji	B	85.00
100	Alembic Chemical	B	70.00
100	Alembic Glass	A	90.00
100	Alembic Glass	B	82.00
100	Alembic Glass	Bg.	90.00
10	Alfred Herbert	B	14.00
10	Alfred Herbert	C	15.81
10	Alfred Herbert	D	17.00
10	Alipurduar Tea	C	10.06
10	Alirox Abrasives	D	5.75
10	Alkali & Chemical	B	24.50
10	Alkali & Chemical	C	24.50
10	Alkyl Amines	B	13.75
100	Alliance Jute	C	105.00
10	Alliance Property	D	8.00
10	Allied International	B	10.25
10	Allied Steel	B	3.50
10	Allied Steel	C	3.00
10	Aluminium Corpn.	C	1.72
10	Aluminium Corpn.	D	5.50
10	Aluminium Ind.	B	20.50
10	Aluminium Ind.	M	20.00
10	Alwar Inv.	C	2.81
10	Amalgamated Coal	C	1.52
100	Amalgamated Dev.	C	41.00
10	Amalgamated Elec.	B	8.25
10	Amalgamated Repco	M	15.15
100	Amar Dye-Chem.	A	185.00
100	Amar Dye-Chem.	B	187.50
10	Amar Inv.	C	3.25
125	Amarsinhji Mills	A	30.00
10	Amausi Textile	D	2.50
100	Ambica Mills	A	227.00
10	Ambica Shipping	C	5.06
100	Ambika Silk Mills	B	90.00
10	American Refri.	C	7.25
10	Amines & Plasticizer	B	17.50
10	Amines & Plasticizer	C	29.00
10	Amitabh Mills	C	10.00
10	Amluckie Invest.	C	5.00
10	Amrapali Films	C	3.06
10	Amrit Banaspati	D	19.25
10	Amrit-Villa Inv.	C	3.60
1000	Amritsar Sugar	D	280.00
200	Amruta Textile	A	572.50
10	Amrutanjan	M	39.00
10	Anand Bag Tea	C	20.50
50	Anand Electric	B	45.00
10	Anandam Tea	M	13.35
2	Anaparai Coffee	M	13.25
10	Andaman Timber	C	16.94
100	Andhra Bank	H	300.00
100	Andhra Bank	M	290.00
10	Andhra Cement	B	14.00
10	Andhra Cement	Bg.	11.07
10	Andhra Cement	H	14.75
10	Andhra Cement	M	10.50
100	Andhra Cotton Mills	H	75.00
100	Andhra Cotton Mills	M	100.00
10	Andhra Farm Chem.	H	10.00
10	Andhra Foundry	M	2.40
100	Andhra Mechanical	H	100.00
10	Andhra Pradesh Carbides	H	10.00
100	Andhra Pradesh Paper	B	207.50
100	Andhra Pradesh Paper	H	322.50
10	Andhra Pradesh Rayons	B	17.50
10	Andhra Pradesh Rayons	C	17.31
10	Andhra Pradesh Rayons	D	16.75
10	Andhra Pradesh Rayons	H	17.15
10	Andhra Pradesh Scooters	H	10.00
10	Andhra Pradesh Tanneries	H	10.00
100	Andhra Printers	M	35.75
10	Andhra Steel	B	15.00
10	Andhra Steel	Bg.	19.00
10	Andhra Steel	C	7.75
10	Andhra Steel	H	10.00
10	Andhra Sugar	M	33.75
100	Andhra Valley Power	B	106.00
10	Andrew Yule	C	5.00
10	Angelo Bros.	C	5.00
10	Anglo American Marine	B	1.00
10	Anglo American Marine	C	4.00
100	Anglo French Textile	M	218.00
100	Anglo India Jute	C	255.00
100	Anil Hardboards	B	140.00
10	Anil Inv.	D	4.50
100	Anil Starch	A	180.00
10	Anil Steel	B	13.00
10	Anil Steel	D	6.00
10	Anjney Inv.	C	4.85
10	Ankur Agencies	B	10.00
10	Anmol Trading	B	10.00
10	Annapurna Paper	Bg.	10.00
10	Annapurna Paper	C	2.75
10	Anniversary Inv.	C	6.81
10	Antifriction Bearings	B	44.00
10	Anuh Pharma	B	2.00
100	Anup Engineering	A	265.00
10	Anuradha Inv.	C	5.06
10	Apex Holding	C	3.00
10	Apollo Tubes	B	16.00
10	Apollo Tubes	D	15.25
10	Apollo Tubes	M	9.45
10	Apollo Tyres	B	9.00
10	Apollo Tyres	D	9.00
10	Aradhana Inv.	C	2.00
10	Arbor Acres Farm	B	8.00
100	Arbuda Mills	A	460.00
10	Arcuttipore Tea	C	10.12
10	Arjun Inv.	C	2.50
10	Arjun Inv.	D	7.50
100	Arlabs	B	78.00
10	Arlem Breweries	B	15.00
10	Art Line Investment	D	8.50
10	Artos Breweries	H	10.00
100	Aruna Mills	A	197.00
10	Aruna Sugar	M	9.00
10	Arunodaya Mills	A	30.00
10	Arunodaya Mills	B	13.75
100	Arvind Mills	A	389.00
10	Aryasthan Corpn.	C	2.10
200	Aryodaya Ginning	A	360.00
200	Aryodaya Spinning	A	312.50
10	Asea Ltd.	B	33.50
100	Asher Textile Mills	M	100.00
10	Ashim Inv.	C	10.12
10	Ashish Inv.	C	5.00
5	Ashok Leyland	B	22.50
5	Ashok Leyland	M	22.00
10	Ashoka Cement	C	1.50
100	Ashoka Marketing	D	101.00
100	Ashoka Mills	A	185.00
10	Ashoka Viniyoga	D	10.25
10	Asia Automotive	B	14.50
10	Asia Automotive	D	13.50
100	Asian Cables	B	330.00
100	Asian Dehydrates	B	35.00
100	Asian Electronics	B	90.00
10	Asiatic Oxygen	C	11.62
10	Asochem Ltd.	C	1.69
10	Aspinwall & Co.	M	10.15
10	Aspinwall (Travancore)	M	6.13
10	Assam Asbestos	C	7.50
10	Assam Brook Tea	C	12.37
10	Assam Carbon	C	19.87
10	Assam Co. India (Tea)	B	20.00
10	Assam Co. India (Tea)	C	20.87
10	Assam Frontier	B	15.00
10	Assam Frontier	C	14.85
10	Assam Hardboard	C	0.81
3	Assam Saw Mills	C	1.62
100	Associated Bearings	B	352.50
100	Associated Cement	B	136.00
10	Associated Gen. Tdg.	C	5.19
10	Associated Glass	H	3.00
100	Associated Pulp	A	92.00
100	Associated Rubber	B	144.00
10	Associated Stone	B	9.75
10	Atal Tea	C	4.00
10	Atlas & Union Jute	D	10.00
10	Atlas Copco	B	40.00
10	Atlas Cycle	B	24.50
10	Atlas Cycle	D	23.75
2	Attikhan Coffee	Bg.	3.25
2	Attikhan Coffee	M	3.80
100	Atul Products	A	299.00
10	Auckland Int.	C	6.25
100	Auckland Jute	C	85.00
10	Aurangabad Paper	A	4.00
10	Aurangabad Paper	B	4.00
50	Autofin Ltd.	H	45.00
10	Automobile Product	B	14.50
10	Avanti Leathers	H	10.00
10	Avery India	C	32.15
10	Awanti Fibres	C	2.06
10	**B.** A. Bros.	C	3.94
10	B. B. Investment	C	2.56
10	B. D. Steel Castings	B	22.50
10	B. P. Investment	C	10.02
100	B. R. Cotton	B	12.00
10	BASF Limited	B	56.00
5	Bababudin Coffee	M	5.50
2	Badra Coffee	Bg.	8.75
2	Badra Coffee	M	7.86
10	Bagalkot Udyog	B	6.50
10	Bagalkot Udyog	D	13.15
10	Bagdigi Kujama Coal	C	3.81
10	Bagmari Tea	C	15.12
10	Bagrodia Forge	C	2.09
10	Baid Textile	C	3.06
10	Baitakhal Tea	C	3.31
100	Bajaj Auto	B	1550.00
100	Bajaj Electricals	B	162.50
100	Bajaj Electricals	D	160.00
10	Bajaj Electricals (Defd.)`	B	167.50
10	Bajaj Plastics	B	33.50
10	Bajaj Tempo	B	87.00
10	Bajrang Finance	C	4.25
10	Balaji Investment	C	3.81
10	Balanoor Tea	Bg.	24.00
10	Balanoor Tea	M	29.00
10	Balasubramania Mills	M	6.77
100	Balkrishna Paper	A	500.00
100	Balkrishna Paper	B	500.00
100	Balkrishna Paper	D	350.00
10	Ballarpur Ind.	B	52.50
10	Ballarpur Ind.	C	54.00
10	Ballarpur Ind.	D	52.00
10	Bally Jute	C	11.31
100	Balmer Lawrie	C	157.00
10	Balrampur Chini	C	7.00
2 1/2	Balrampur Sugar	C	2.50
10	Balsara Hygiene	B	10.00
100	Banarhat Tea	C	137.00
10	Bangalaxmi Inv.	C	1.75
10	Bangalore Fort Farms	Bg.	6.25
10	Bangalore Printing	Bg.	4.75
10	Bangalore Printing	M	5.10
10	Bangalore Rolling	Bg.	10.80
10	Bank of Madura	M	9.75
100	Bankura Damodar Rly.	C	14.50
10	Banswara Syntex	D	20.00
10	Baraee Coke Co.	C	0.50
6	Barduar Tea	C	3.00
10	Bareilly Holding	C	8.06
100	Barium Chemicals	B	61.00
£5	Barnagore Jute	C	65.00
100	Baroda Elec. Meters	A	71.00
100	Baroda Elec. Meters	B	70.00
100	Baroda Rayon	A	195.00
100	Baroda Rayon	B	206.50
100	Baroda Rayon	D	194.00
10	Basant Paper	C	8.25
10	Basanti Mills	C	12.50
10	Basmatia Tea	C	26.25
10	Bassein Electric	B	9.50
100	Basti Sugar	C	90.50
100	Basti Sugar 'A'	D	95.00
10	Basti Sugar 'B'	D	3.00
10	Bata India	B	18.00
10	Bata India	C	18.20
10	Bateli Tea	C	17.50
100	Bayer India	B	255.00
5	Be Be Rubber	M	7.25
10	Beco Engineering	B	24.25
10	Beco Engineering	D	16.25
10	Behar Foundry	C	2.25
10	Beharilal Madanlal	D	2.00
25	Bejoynagar Tea	C	17.00
50	Belapur Sugar	B	31.00
10	Belgachi Tea	C	17.00
10	Bellgraphic Record	B	10.25
7 1/2	Belsund Sugar	C	9.00
10	Bengal ARC Steel	C	4.56
100	Bengal Assam Steamship	C	75.00
10	Bengal Bhatdee Coal	C	0.60
100	Bengal Chemical	C	36.00
10	Bengal Flour	C	14.00
10	Bengal Ingot	C	5.06
10	Bengal Jute	C	4.87
10	Bengal Nagpur Coal	C	0.90
10	Bengal National Text.	C	7.87
10	Bengal Paper	C	12.00
2 1/2	Bengal Potteries	D	1.88
100	Bengal Timber	C	3.75
10	Bengal Tools	C	2.00
10	Best & Crompton	B	38.50
10	Best & Crompton	M	37.75
10	Bestobell India	C	13.50
10	Bhadrachalam Paper	B	19.00
10	Bhadrachalam Paper	C	18.50
10	Bhadrachalam Paper	H	18.50
10	Bhagalpore Elec.	C	5.50
3	Bhagat Ind. Corpn.	D	2.50

1. Equity Share Quotation for the purposes of substituting fair market value in respect of Computation of "Capital Gains" as on 1-4-1974, in relation to assessment years 1987-88 to 1992-93, refer pp. 326-331 of I.T.R.R. 1991-92 (53rd Year of Publication).

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[2] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
100	Bhagavathi Textile	M	100.00
10	Bhagwati Oxygen	B	1.50
10	Bhagwati Oxygen	D	2.00
10	Bhagwati Pressing	C	7.75
10	Bhagwati Vanaspati	C	6.00
10	Bhagyodaya Inv.	B	2.00
100	Bhalakia Mills	A	153.75
10	Bharat Alums	B	18.00
10	Bharat Alums	D	20.25
100	Bharat Bijlee	B	260.00
10	Bharat Carbon	D	1.50
10	Bharat Carpets	D	10.50
10	Bharat Commerce	B	41.00
10	Bharat Commerce	C	40.25
10	Bharat Commerce	D	39.50
100	Bharat Fertilizer	B	120.00
10	Bharat Forge	B	52.50
10	Bharat Gears	B	45.00
10	Bharat Gears	D	44.50
1	Bharat Line	B	0.76
10	Bharat Nidhi	C	2.12
10	Bharat Nidhi	D	2.37
2 1/2	Bharat Nidhi	D	0.30
10	Bharat Rubber	C	11.37
10	Bharat Starch	C	10.25
10	Bharat Steel Tube	B	18.00
10	Bharat Steel Tube	D	16.87
10	Bharat Sugar	C	20.62
100	Bharat Suryodaya Mills	A	175.00
100	Bharat Vijay Mills	A	725.00
10	Bharat Westfalia	C	7.50
100	Bharatia Co.	C	37.60
10	Bharatia Commercial	C	3.50
10	Bharatia Elec. Steel	C	10.00
10	Bharatia Sons	C	3.25
10	Bharech Inv.	C	5.05
10	Bhaskar Indl. Dev.	C	5.19
10	Bhaskar Textile	C	1.75
10	Bhatkowa Tea	C	13.56
10	Bhavani Tea & Produce	Bg.	15.50
10	Bhavani Textile	M	7.69
10	Bhavi Inv.	B	6.00
10	Bhilai Wires	B	13.25
10	Bhilwara Synthetics	C	7.75
10	Bhilwara Synthetics	D	9.00
10	Bhopal Sugar	B	50.00
10	Bhoruka Finance	B	8.00
10	Bhoruka Steel	B	68.00
10	Bhoruka Steel	Bg.	72.25
10	Bhushan Comml.	D	1.12
10	Biecco Lawrie	C	1.00
10	Bigoo Inv.	C	2.00
10	Bihar Alloy Steels	B	16.00
10	Bihar Alloy Steels	C	16.12
10	Bihar Alloy Steels	D	16.50
200	Bihari Mills	A	425.00
10	Bihariji Finance	C	1.81
10	Bihariji Finance	D	3.50
10	Bihariji Int.	C	1.81
10	Bijni Dooars	C	9.37
10	Bilaspur Spg.	B	6.00
10	Bilaspur Spg.	C	4.94
10	Bilaspur Spg.	D	6.50
10	Bimetal Bearings	B	45.50
10	Bimetal Bearings	M	45.00
10	Binani Metal	C	2.25
100	Binny Ltd.	Bg.	27.50
100	Binny Ltd.	M	32.00
10	Binod Jute & Fibre	C	7.12
100	Binod Mills	Mp.	18.00
100	Birds Jute & Exports	C	4.50
10	Birla Cotton	C	14.00
10	Birla Cotton	D	16.00
10	Birla Jute	C	31.10
10	Bishnauth Tea	C	19.62
10	Bisra Stone Lime	C	5.25
10	Bloomfield Tea	C	5.87
10	Blow Plast	B	60.00
10	Blue Chips Inv.	C	2.65
10	Blue Horizon Inv.	C	10.00
10	Blue Star Ind.	B	26.00
10	Boehringer-Knoll	B	23.00
25	Bombay Burma	B	52.50
20	Bombay Cycle	B	20.00
25	Bombay Dyeing	B	90.00
100	Bombay Oxygen	B	130.00
10	Bombay Paints	B	13.25
100	Bombay Potteries	B	92.50
50	Bombay Silk Mills	B	50.00
100	Bombay Sub. Elec.	B	109.00
5	Bombay Swadeshi Stores	B	3.00
10	Bombay Tyres	B	10.00
10	Bombay Wire Ropes	B	6.50
100	Bond Co.	D	127.50
10	Boots Pure Drug	B	26.00
50	Borax Morarji	B	142.50
10	Bormahjan Tea	C	10.75
10	Borosil Glass	B	32.75
10	Borrea Coal	C	0.37
10	Bowreah Cotton	C	18.00
50	Bradbury Mills	B	2.00
100	Brady & Morris	B	57.50
10	Bright Investors	D	3.50
10	Bright Wires	B	2.50
10	Bright Wires	C	0.75
10	Brindavan Alloys	Bg.	10.00
10	Britannia Ind.	B	20.50
10	Britannia Ind.	C	20.40
10	Britelite Carbon	A	12.25
10	Britelite Carbon	B	12.25
10	British Paints	C	17.87
10	Brooke Bond India	B	24.00
10	Brooke Bond India	C	23.20
10	Brownia Inv.	C	5.40
10	Brunton Eng.	M	2.00
3	Budge Budge Jute	C	3.37
10	Bundy Tubing	A	20.50
10	Bundy Tubing	M	20.50
100	Burdwan Cutwa Rly.	C	50.00
7 1/4	Burma Mines	C	1.00
10	Burrakur Coal	C	0.90
10	**C.** W. S. (India)	B	16.00
10	C. W. S. (India)	Bg.	19.00
10	C. W. S. (India)	M	17.00
100	CTR Mfg.	B	105.00
10	Cadbury	B	23.25
10	Calcutta Burlop	C	12.40
10	Calcutta Chemical	C	15.00
10	Calcutta Cr. Corpn.	C	7.00
10	Calcutta Electric	C	11.80
10	Calcutta Gas	C	1.15
100	Calcutta Inv.	C	50.00
10	Calcutta Jute	C	5.00
10	Calcutta Landing	C	24.00
10	Calcutta Sec. Printers	C	8.20
10	Calcutta Silk Mfg.	C	7.60
10	Calcutta Steel	C	6.56
100	Caledonian Jute	C	110.00
125	Calico Mills	A	254.00
10	Camac Commercial	C	10.19
100	Cambay Inv.	C	90.00
100	Camperdown Pressing	C	100.00
100	Camphor & Allied	B	225.00
100	Camphor & Allied	D	225.00
10	Canara Land Inv.	Bg.	7.82
10	Canara Steel	B	11.00
10	Canara Steel	Bg.	15.00
10	Canara Workshop	M	12.70
10	Caprihans	B	18.75
10	Caprihans	D	17.50
10	Carbon Corpn.	B	26.50
10	Carbonate India	C	8.00
100	Carborundum	M	392.00
10	Carew & Co.	C	20.62
100	Carona Sahu	B	151.25
10	Cawnpore Sugar	C	13.37
5	Cawnpore Textile	C	6.44
100	Ceat Tyres	B	190.00
10	Cede Investment	C	5.00
10	Cede Investment	D	10.00
10	Ceekay Auto	B	11.25
100	Cellulose Products	A	240.00
10	Cement Distributors	C	2.56
10	Cement Distributors	D	4.75
10	Cemindia	B	24.50
10	Cemindia	C	16.25
10	Central India Indus.	D	31.00
10	Central India Indus.	Mp.	23.50
10	Central India Machinery	B	32.00
10	Central India Machinery	C	33.00
10	Central India Machinery	D	15.75
10	Central India Machinery	Mp.	10.00
50	Central India Spg.	B	87.00
10	Central Kurkend Coal	C	1.00
100	Central Prov. Rly.	B	23.50
5	Central Scientific	M	5.30
10	Centron Indl. Alliance	A	4.76
10	Centron Indl. Alliance	B	4.76
100	Century Enka	B	831.50
100	Century Enka	D	570.00
100	Century Spg. Mills	A	699.00
100	Century Spg. Mills	B	705.00
100	Century Spg. Mills	C	677.00
100	Century Spg. Mills	D	699.00
10	Century Tube	D	9.00
10	Challapalli Sugar	M	3.00
10	Chamong Tea	C	5.25
10	Champaklal Inv.	Bg.	10.25
10	Champaran Sugar	C	9.50
10	Champdany Jute	C	13.25
10	Chankya Inv.	B	4.00
100	Chaparmukh Rly.	C	6.25
10	Chase Bright Steel	B	12.00
10	Chase Bright Steel	C	10.00
2	Chembra Peak Tea	M	2.58
10	Chemical & Fibres	B	25.00
10	Chemical & Fibres	C	25.40
100	Chemical & Plastics	B	230.00
100	Chemical & Plastics	M	252.00
100	Chemicoat	B	75.00
10	Chemiequip	B	10.00
25	Chemo-Pharma	B	27.00
10	Chemopulp Tissues	B	6.00
10	Chemopulp Tissues	C	4.94
10	Chemopulp Tissues	D	6.56
10	Chettinad Cement	M	5.75
3	Cheviot Jute	C	5.00
5	Chherra-Chhatak Rope	C	2.06
10	Chinar Indl. Inv.	D	10.00
10	Chitavalsah Jute	C	83.00
10	Chloride India	B	38.50
10	Chloride India	C	39.50
10	Cholamandal Inv.	M	10.50
10	Chora Inv.	C	2.50
10	Chowgule Metrix	H	10.00
10	Chowgule Steamship	B	26.00
10	Chowgule Steamship	D	25.50
100	Citric India	B	33.00
10	Citurgia Bio-Chem.	A	15.50
10	Citurgia Bio-Chem.	B	16.50
10	City Holding	C	7.87
10	Cleveland Inv.	C	2.00
10	Clive Row Inv.	C	7.87
10	Coastal Paper	H	10.00
10	Coates	B	19.50
10	Coates	C	18.00
10	Coates	D	19.50
3	Cochin Malabar	B	5.95
10	Cochin Malabar	M	16.75
2	Cochin Plantation	Bg.	10.10
100	Cochin Refinery	B	220.00
10	Coffee Lands	Bg.	26.50
10	Coffee Lands	M	30.50
100	Coimbatore Kamla Mills	M	77.50
50	Coimbatore Kamla Mills	M	37.75
100	Coimbatore Pio Fert.	M	100.00
100	Coimbatore Pioneer Text.	M	140.00
10	Colgate Palmolive	B	148.50
100	Colour Chem.	B	225.00
10	Comet-Filaments	D	10.50
10	Cominco Binani Zinc	C	8.00
10	Cominco Binani Zinc	M	5.56
10	Commerce (1935)	B	3.24
250	Commercial Ahmedabad Mills	A	307.50
5	Concast Products	C	7.50
10	Consolidated Coffee	Bg.	35.00
10	Consolidated Coffee	M	31.00
10	Consolidated Equipment	C	3.37
10	Consolidated Steel	D	3.37
10	Coonoor Tea	M	28.00
100	Cooper Eng.	B	23.00
2	Coorg Tea	Bg.	5.00
2	Coorg Tea	M	5.60
10	Corn Products	B	14.00
10	Coromandel Agro	H	10.00
10	Coromandel Eng.	M	12.25
10	Coromandel Fertilizers	B	22.25
10	Coromandel Fertilizers	D	21.00
10	Coromandel Fertilizers	H	22.00
10	Coromandel Fertilizers	M	21.00
50	Corporation Bank	Bg.	75.00
50	Corporation Bank	M	79.00
10	Cosmo Films	B	10.75
10	Cosmo Films	D	10.75
10	Cottanad Rubber	M	9.50
10	Covelong Hotel	M	10.00
2	Cowcoody Coffee	M	8.50
10	Cravatex	B	24.00
10	Crescent Dyes	B	19.50
10	Crescent Dyes	C	19.50
100	Crompton Greaves	B	375.00
100	Crompton Greaves	C	227.00
100	Crompton Greaves	D	372.50
100	Crompton Greaves	M	342.00
10	Cryogenies India	C	8.35
10	Curewel	B	14.50
10	Curewel	D	12.50
10	Cyanamid (India)	A	38.00
10	Cyanamid (India)	B	37.00
100	**D.** B. R. Mills	H	35.00
10	D. L. Miller Jute	C	5.00
25	DCM	D	40.84
10	DLF Universal	B	7.00
10	DLF Universal	D	16.25
10	DSP Financial	B	6.25
10	Dabriwala Steel	C	1.45
10	Dalal Street	B	5.25
100	Dalhousie Jute	C	125.00
10	Dalmia Cement	B	16.00
10	Dalmia Cement	C	16.50
10	Dalmia Cement	D	16.50
10	Dalmia Cement	M	17.75
10	Dalmia Dairy Ind.	C	14.87
10	Dalmia Dairy Ind.	D	16.00
10	Damodar Carriers	B	3.00
100	Damodar Enterprise	C	25.50
100	Damodar Enterprise	D	110.50
10	Darjeeling Dooars Tea	C	6.00
10	Darjeeling Plantations	B	16.25
10	Darjeeling Plantations	C	15.75
10	Darjeeling Ropeway	C	1.25
100	Darjeeling Tea	C	52.00
10	Davangere Sugar	Bg.	6.00
100	Davangere Text. Mill	Bg.	168.00
10	Davy Ashmore	B	25.00
10	Davy Ashmore	C	27.12
50	Dawn Mills	B	73.00
10	Deccan Fibre Glass	B	11.75
10	Deccan Fibre Glass	C	12.44
	Deccan Fibre Glass	H	12.00
10	Deccan Inv.	B	6.00
10	Deccan Polymers	H	6.10
5	Deccan Sugar	M	8.50
10	Deepak Nitrite	B	32.50
10	Deepak Ind.	C	4.25
10	Deepak Ins. Cables	B	19.75
10	Deepak Ins. Cables	Bg.	17.25
10	Deepak Ins. Cables	M	14.50
10	Deepraj Inv.	D	8.50
100	Dehra Dun Tea	C	128.00
10	Dehri-Rohtas Rlys.	C	1.06
10	Dejoo Valley Inv.	C	4.70
10	Delhi Flour	D	10.00
10	Delhi Safe	D	6.00
10	Delta Int.	C	3.50
10	Delta Inv.	A	5.00
4	Delta Jute	C	7.00
10	Delta Paper	H	10.00
10	Deluxe Film	C	4.60
10	Dempo Dairy	Bg.	10.00
100	Dempo Steamships	B	665.00
10	Denison Hydraulics	H	3.00
10	Deoria Sugar	C	5.00
10	Depro Foods	D	4.50
10	Derby Tea & Ind.	C	11.50
10	Derco Cooling Coils	H	10.00
10	Detergents India	H	10.00
10	Devashola Tea	M	10.00
10	Devidayal Elec.	B	17.00
10	Devon Tea	Bg.	24.00
10	Devon Tea	M	22.75
10	Dey-Se-Chem	C	5.00
100	Dhanalakshmi Mills	M	150.00
50	Dharamsi Chemicals	B	135.00
10	Dharuhera Chem.	B	12.50
10	Dharuhera Chem.	C	14.75
10	Dhelakhat Tea	C	19.25
100	Dhrangadhra Chemical	B	116.00
100	Dhrangadhra Chemical	C	103.00
100	Dhrangadhra Chemical	D	115.00
100	Dhrangadhra Chemical	M	114.00
10	Dhunseri Tea	C	13.12
10	Diamines & Chemicals	A	17.25
10	Diamines & Chemicals	B	15.50
10	Diamond Dies	B	28.00
10	Diamond Dies	Bg.	33.00
10	Diamond Invest.	C	4.00
10	Dibrugarh Tea	C	25.00
10	Didwana Ind. Corpn.	D	12.62

2. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[3] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	Digital Electronics	B	8.50
10	Dimakusi Tea	C	21.75
10	Dipchand Dev.	C	2.00
10	Dishergarh Power	C	6.87
10	Dolphin Hotels	H	10.00
10	Doom Dooma Tea	C	18.00
10	Ductron Castings	H	10.00
10	Dumraon Textile	C	5.60
10	Dunbar Mills	C	10.25
100	Duncan Agro	C	165.00
100	Duncan Bros.	C	101.00
10	Dunlop India	C	20.00
10	Duphar	B	22.00
10	Durrang Steels	C	1.50
10	Durrang Steels	D	7.00
10	Dynamatic Hydrolics	B	41.00
10	Dynamatic Hydrolics	Bg.	40.00
10	**E.** I. D. Parry	B	12.00
10	E. I. D. Parry	M	12.00
10	E. L. Forge	M	24.65
10	East Anglia Plastic	C	7.69
10	East Coast Boat	H	10.00
10	East End Paper	C	6.62
10	East India Hotel	B	24.50
10	East India Hotel	C	24.62
10	East India Hotel	D	23.25
10	East Indian Produce	C	6.06
10	East West Hotel	B	13.00
10	East West Hotel	Bg.	8.50
10	Eastern Cachar Tea	C	11.19
10	Eastern General Indl.	C	3.81
10	Eastern Holdings	C	2.00
10	Eastern Int. Hotel	B	9.00
10	Eastern Investment	C	1.50
10	Eastern Silk Ind.	C	8.00
10	Eddy Current	B	28.00
10	Eddy Current	M	21.50
100	Elecon Eng.	A	600.00
100	Elecon Eng.	B	610.00
10	Electric Const.	C	38.25
10	Electric Const.	D	40.00
100	Electrical Instruments	A	51.00
10	Electrical Mfg. Co.	C	10.81
10	Electro Equipment	B	7.50
10	Electro St. Casting	B	45.50
10	Electro St. Casting	C	43.50
10	Electro St. Casting	D	41.50
10	Electronics	D	5.00
10	Elgi Equipments	Bg.	27.50
10	Elgi Equipments	M	30.00
10	Elgi Rubber	M	24.00
10	Elgin Holding	C	3.50
10	Elgin Mills	C	17.75
10	Ellenbarrie Indl. Gases	C	5.00
100	Ellenbarrie Tea	C	85.50
10	Ellora Paper	B	2.00
50	Elphinstone Mills	B	50.00
100	Elpro International	B	235.00
10	Elsons Cotton	C	9.81
10	Elsons Cotton	D	12.00
10	Eltex	M	4.00
100	Emco Esta	B	9.00
100	Emco Transformers	B	125.00
10	Emerald	D	4.30
10	Emerald Valley Coffee	Bg.	24.00
15	Empire Ind.	B	28.00
10	Empire Jute	C	3.00
10	Enamelled Wires	B	9.25
10	Enfield	M	19.60
10	Engine Valves	M	28.50
10	English Electric	C	38.50
100	English Indian Clays	M	100.00
100	Engo Tea	C	73.00
10	Ennore Foundries	B	35.00
10	Ennore Foundries	D	39.00
10	Ennore Foundries	M	36.87
10	Equinox Co.	C	6.90
10	Escorts Ltd.	A	38.25
10	Escorts Ltd.	B	39.50
10	Escorts Ltd.	Bg.	38.50
10	Escorts Ltd.	C	39.10
10	Escorts Ltd.	D	38.12
10	Essar Investment	M	6.75
50	Estrela Batteries	B	9.00
10	Ethelbari Tea	C	7.50
10	Eurokote	A	4.50
10	Eurokote	B	4.50
10	Everest Refrigerant	B	1.00
10	Everlight Holdings	C	5.87
10	Evershine Trade	C	3.25
10	Excel Glasses	B	4.24
10	Excel Industries	B	38.50
10	Excel Industries	D	36.75
10	Exhibitors Syndicate	C	4.05
10	**F.**A.C.T.	M	6.40
10	Fab Leather	C	7.00
100	Facit (Asia)	B	120.00
10	Facit (Asia)	M	22.00
10	Falcon Tyres	B	16.00
10	Falcon Tyres	Bg.	16.50
10	Falcon Tyres	D	14.00
10	Falcon Tyres	M	14.50
10	Far Seen Trading	C	3.40
100	Faridabad Inv.	C	86.00
10	Faridabad Paper	C	4.69
100	Ferro Alloys	B	220.00
100	Ferro Alloys	H	100.00
10	Ferro Coatings & Colours	C	7.70
10	Fibreglass Pilkington	B	18.25
10	Ficom Organic	A	12.00
10	Ficom Organic	B	16.00
100	Finlay Mills	B	120.00
10	Firth India	B	16.00
100	Fit Tight Nuts & Bolts	B	250.00
10	Food Specialities	B	33.00
10	Food Specialities	D	33.00
10	Foods & Inns.	B	10.00
100	Fort Gloster Ind.	C	340.00
10	Fort Rock Investment	C	2.50
10	Fort William Jute	C	11.50
5	Frank Ross & Co.	C	2.00
10	Fraser & Co.	C	2.50
20	French Motor Car	C	6.00
10	Frick India	B	19.50
10	Frick India	D	17.25
100	Fuel Injections	B	85.00
100	Futwa Islampur Rlys.	C	6.50
100	**G.** Claridge	B	150.00
100	G. G. Dandekar	B	98.00
10	GL Hotels	B	16.00
10	GL Hotels	D	12.50
10	Gabriel	B	20.00
10	Gabriel	D	17.00
100	Gaekwar Mills	B	64.00
10	Gajra Bevel	B	29.00
10	Gajra Bevel	Mp.	9.50
10	Galada Continuous	H	10.00
10	Gammon (India)	B	20.75
12 1/2	Ganesh Flour	D	5.00
10	Gangappa Cables	B	16.00
10	Gangappa Cables	H	11.75
10	Gangavati Sugar	Bg.	3.85
10	Ganges Investment	C	6.50
10	Ganges Jute	C	3.69
100	Ganges Rope	C	104.00
10	Gangeshwar Sugar	D	9.25
10	Garuda Investment	C	1.12
10	Garware Nylons	B	37.00
10	Garware Nylons	C	32.60
10	Garware Nylons	D	37.00
10	Garware Nylons	M	27.50
10	Garware Paints	B	38.00
10	Garware Wall Ropes	B	42.00
10	Gateway Chemist	B	4.00
100	Geep Flashlight	D	80.00
10	General Electric	C	22.20
100	General Electrodes	B	150.00
10	General Industrial	C	15.19
100	General Investment	C	105.00
10	George Williamson	B	20.00
10	George Williamson	C	21.10
10	George Williamson	D	22.50
10	German Remedies	B	28.50
10	German Remedies	D	30.25
10	Gian Agro Ind.	D	5.50
10	Gielle Investment	C	2.12
10	Gillanders Arbuthnot	C	8.81
10	Gillapukri Tea	C	8.00
10	Giltedged Indl.	D	2.75
125	Girdhardas Harivallabh.	A	106.00
10	Giri Finance	C	1.81
10	Glaxo Laboratories	B	23.00
100	Globe Auto	B	25.00
10	Globe Auto (Gujarat)	B	10.50
100	Globe Motors	D	22.00
10	Globe Steerings	B	1.00
100	Gnanambikai Mills	M	100.00
10	Goa Carbon	B	34.00
10	Gobardhan Trading	C	3.12
10	Godavari Plywoods	H	10.00
10	Godfrey Phillips	B	16.50
10	Godfrey Phillips	C	16.75
10	Goetze	B	24.25
10	Goetze	Bg.	23.75
10	Goetze	D	22.75
100	Gokak Mills	B	231.00
2	Gokul Rubber	M	6.15
10	Golconda Inv.	H	8.00
100	Gold Mohur Mills	B	98.00
10	Gold Rock	B	5.50
10	Golden Tobacco	A	13.50
10	Golden Tobacco	B	14.25
10	Golden Tobacco	C	14.37
10	Golden Tobacco	D	13.00
10	Golden Tobacco	M	12.75
10	Gontermann-Peiper	B	10.75
10	Gontermann-Peiper	C	14.75
10	Goodlass Nerolac	B	45.50
10	Goodricke Group	B	14.00
10	Goodricke Group	C	15.00
10	Goodricke Group	D	15.87
10	Goodwill (India)	D	13.00
10	Goodyear India	C	16.12
10	Goodyear India	D	17.00
30	Gopalpore Tea	C	16.50
10	Gopichand Textile	D	10.25
10	Gordon Woodroffe	B	26.50
10	Gordon Woodroffe	M	27.75
10	Gourangdi Coal	C	2.50
10	Gourepore Jute	C	5.06
10	Govind Sugar	C	10.25
10	Graham Firth	B	38.00
10	Gramophone Co.	C	33.12
10	Graphite India	B	37.00
10	Graphite India	C	38.50
10	Grauer & Weil	B	11.00
10	Grauer & Weil	D	10.75
10	Great Eastern Shipping	B	55.35
100	Greaves Cotton	B	185.00
100	Greaves Cotton	C	195.00
10	Greaves Lombardini	B	11.75
10	Greaves Lombardini	D	12.00
5	Grob Tea	C	3.75
10	Guest. Keen, Williams	C	26.90
10	Gujarat Alkalies	A	45.50
10	Gujarat Alkalies	B	46.00
10	Gujarat Alkalies	D	44.00
10	Gujarat Aromatics	A	17.00
10	Gujarat Aromatics	B	16.25
10	Gujarat Auto	B	11.50
10	Gujarat Carbon	A	28.00
10	Gujarat Carbon	B	28.50
10	Gujarat Carbon	C	18.50
100	Gujarat Ind. Truck	A	10.00
100	Gujarat Ind. Truck	B	10.00
10	Gujarat Machine Tools	A	8.75
100	Gujarat Machinery	A	175.00
100	Gujarat Machinery	B	175.00
10	Gujarat Ministeel	A	29.00
10	Gujarat Ministeel	B	28.00
10	Gujarat Oxygen	A	1.50
10	Gujarat Oxygen	B	1.50
100	Gujarat Safe	B	70.00
100	Gujarat State Fertilizers	A	431.00
100	Gujarat State Fertilizers	B	469.00
100	Gujarat State Fertilizers	C	493.00
100	Gujarat State Fertilizers	D	462.00
100	Gujarat State Fertilizers	M	438.00
10	Gujarat State Machinery	B	11.00
100	Gujarat Steel Tube	A	445.00
100	Gujarat Steel Tube	B	430.00
100	Gujchem Dist.	A	222.50
100	Gujchem Dist.	B	215.00
10	Gunnytex (India)	C	4.00
10	Gwalior Rayon	B	67.75
10	Gwalior Rayon	Bg.	64.75
10	Gwalior Rayon	C	67.70
10	Gwalior Rayon	D.	68.00
10	Gwalior Rayon	Mp.	60.00
10	Gwalior Security	C	4.75
100	Gwalior Sugar	B	190.00
10	Gwalior Tools	C	2.70
10	Gwalior Webbing	D	11.50
10	**H**ES Limited	B	4.00
10	HMM Ltd.	B	59.50
10	HMM Ltd.	D	59.00
10	Hada Steel Products	D	8.00
10	Hada Textile Mills	C	11.00
10	Hada Tools	C	3.00
10	Haileyburia Tea	B	14.00
10	Haileyburia Tea	M	10.25
10	Hanuman Tea	C	8.00
10	Hardcastle Waud	B	14.00
10	Haryana Breweries	B	5.25
10	Haryana Breweries	D	5.87
10	Haryana Coated	D	7.00
10	Haryana Concast	B	4.00
10	Haryana Detergent	D	9.00
10	Haryana Elec. St.	D	4.00
10	Haryana Oxygen	D	2.00
10	Haryana Sheet Glass	D	5.00
10	Haryana St. & Alloys	B	1.00
10	Haryana St. & Alloys	C	7.50
10	Haryana St. & Alloys	D	15.00
10	Hasimara Industries	C	6.00
100	Hastings Jute	C	102.00
10	Hattikhira Tea	C	7.50
10	Hein Lehmann	C	4.30
100	Hemakuta Ind.	B	5.00
10	Hemalatha Mills	M	1.00
10	Hercules Hoist	B	19.00
10	Herdillia Chemicals	B	30.50
10	Hicks Thermometer	D	12.50
10	Hico Products	B	39.00
10	Highland Produce	B	18.75
10	Highland Produce	M	11.30
10	Himalaya Co.	C	2.15
10	Himalaya Rubber	C	9.00
10	Himani Ltd.	C	4.25
10	Himdoot Investment	C	3.20
10	Hind Rectifiers	B	28.00
10	Hindustan Aluminium	B	46.00
10	Hindustan Aluminium	C	46.25
10	Hindustan Aluminium	D	46.25
10	Hindustan Brew.	B	4.50
10	Hindustan Brew.	D	9.25
100	Hindustan Brown Boveri	A	307.50
100	Hindustan Brown Boveri	B	310.00
100	Hindustan Brown Boveri	D	305.00
10	Hindustan Buildings	C	1.12
50	Hindustan Comm. Bank	C	14.50
10	Hindustan Developt.	B	33.50
10	Hindustan Developt.	C	70.00
10	Hindustan Developt.	D	33.00
10	Hindustan Dorr-Oliver	B	120.00
10	Hindustan Electrographite	B	60.00
10	Hindustan Electrographite	C	56.50
10	Hindustan Electrographite	D	59.00
10	Hindustan Everest	B	14.50
10	Hindustan Everest	D	21.00
10	Hindustan Fashions	A	6.00
10	Hindustan Ferodo	B	37.00
10	Hindustan Garment	D	1.50
7	Hindustan Gas	C	31.50
10	Hindustan Gen. Ind.	D	11.25
100	Hindustan Kokoku	C	110.00
100	Hindustan Kokoku	D	125.00
10	Hindustan Lever	A	42.50
10	Hindustan Lever	B	44.75
10	Hindustan Lever	C	43.81
10	Hindustan Lever	D	42.75
10	Hindustan Lever	M	44.00
50	Hindustan Mercantile Bank	C	30.50
250	Hindustan Mills	B	430.00
10	Hindustan Motors	B	21.50
10	Hindustan Motors	C	21.30
10	Hindustan Motors	D	21.38
10	Hindustan National Glass	C	47.50
100	Hindustan Oxygen	A	100.00
100	Hindustan Oxygen	B	100.00
10	Hindustan Pilkington	C	9.56
100	Hindustan Polymers	B	40.00
100	Hindustan Polymers	H	20.00
10	Hindustan Products	C	4.00
10	Hindustan Sanitary	C	30.00
100	Hindustan Sugar	B	270.00
10	Hindustan Trans.	B	5.00
10	Hindustan Wire	B	9.75
10	Hindustan Wire	C	14.62
10	Hindustan Wire Ind.	B	38.00
10	Hindustan Wire Prod.	C	11.94
100	Hindustan Wired Glass	B	12.00
10	Hoare Miller	C	0.06
10	Hoechst Dyes	B	29.25
10	Hoist-O-Mech	B	2.00
10	Hooghly Buildings	C	5.06
50	Hooghly Docking	C	5.00
10	Hooghly Flour	C	8.94
10	Hooghly Jute	C	18.50
10	Hoograjuli Tea	C	6.06
100	Hoolungoorie Tea	C	93.00
100	Hope India	C	80.50
10	Hopes Metal Ind.	C	2.25

3. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[4] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	Horizon Tdg.	C	3.19
10	Hotel Banjara	H	10.00
10	Hotel Ganges	D	11.00
100	Housing Dev. Finance	B	97.00
10	Howrah Jute	C	6.62
7½	Hukumchand Jute	C	31.25
100	Hukumchand Mills	B	100.00
100	Hukumchand Mills	Mp.	105.00
10	Huldibari Tea	C	9.30
10	Humayun Prop.	C	12.50
10	Hurriladih Coal	C	0.50
10	Hyderabad Allwyn	H	20.50
10	Hyderabad Asbestos Cem.	H	47.50
10	Hyderabad Carbon & Chem.	H	10.00
10	Hyderabad Chem. & Fert.	H	4.00
10	Hyderabad Connectronics	H	10.00
10	Hyderabad Vanaspati	C	2.25
10	**I**.A.E.C. (Bom.)	B	7.50
10	I.T.C. Ltd.	B	20.75
10	I.T.C. Ltd.	Bg.	20.50
10	I.T.C. Ltd.	C	20.10
10	I.T.C. Ltd.	D	20.25
10	I.T.C. Ltd.	H	18.25
10	I.T.C. Ltd.	M	20.25
10	IDL Chemicals	B	19.00
10	IDL Chemicals	Bg.	17.50
10	IDL Chemicals	H	16.25
10	IVP Ltd.	B	37.50
10	Incheck Tyres	C	2.12
10	Indabrator	B	13.00
100	Indequip Eng.	A	86.00
10	India Carbon	C	37.25
5	India Cement	B	4.00
5	India Cement	M	3.97
10	India Engineering Const.	D	1.50
10	India Foils	B	25.00
10	India Foils	C	23.00
10	India Forge & Drop	B	26.00
10	India Forge & Drop	M	25.00
10	India Gelatine	A	31.50
12½	India Jute	C	19.00
10	India Paper & Pulp	C	1.62
10	India Photographic	B	78.00
10	India Steamship	C	25.25
10	India Steamship	D	24.50
10	India Sugar	Bg.	6.00
10	India Sugar	M	3.65
10	Indian Air Gases	D	10.50
10	Indian Aluminium	B	23.75
10	Indian Aluminium	C	24.40
100	Indian Aluminium Cables	D	120.00
10	Indian Bright Steel	B	4.00
10	Indian Cables	C	29.50
10	Indian Card Clothing	B	44.00
10	Indian Cement (1937)	B	5.10
10	Indian Dairy	B	11.00
10	Indian Dairy	D	17.75
10	Indian Duplicators	B	22.00
10	Indian Duplicators	C	22.87
10	Indian Duplicators	D	23.75
100	Indian Dyestuff	A	239.00
100	Indian Dyestuff	B	253.00
100	Indian Electro Chem.	A	105.00
100	Indian Electro Chem.	B	65.00
10	Indian Explosives	B	22.75
10	Indian Explosives	C	23.30
10	Indian Hotels	B	82.00
100	Indian Hume Pipe	B	90.00
100	Indian Link Chain	B	108.00
10	Indian Metal & Ferro	C	23.00
100	Indian Organic Chemical	B	312.00
10	Indian Oxygen	C	23.20
10	Indian Plastics	C	33.50
10	Indian Radiators	B	9.25
10	Indian Radiators	M	10.15
10	Indian Rayon	A	78.00
10	Indian Rayon	B	80.00
10	Indian Rayon	C	77.00
10	Indian Resort Hotels	B	30.00
100	Indian Rubber Reg.	A	80.00
100	Indian Rubber Reg.	B	80.00
10	Indian Seamless Metal	B	23.00
10	Indian Steel & Wire	C	36.87
10	Indian Steel Rolling	M	16.00
10	Indian Sulphacid	D	3.25
100	Indian Tool	B	380.00
10	Indian Wood Products	C	7.90
10	Indicarb	B	18.00
10	Indicarb	Bg.	17.50
10	Indicarb	M	16.25
10	Indo National	B	36.00
5	Indo Solex	D	2.20
10	Indo Swiss Time	B	10.25
10	Indo Swiss Time	D	10.37
10	Indo-American Elec.	C	0.75
10	Indo-Asahi Glass	B	16.00
10	Indo-Asahi Glass	C	15.69
10	Indo-Burma Petro.	B	17.00
10	Indo-Burma Petro.	C	21.00
10	Indo-Lowen Brew	B	10.00
10	Indo-Lowen Brew	D	9.25
10	Indore Export & Import 'A'	D	12.62
100	Indore Wires	B	35.00
10	Indu Eng. & Text.	C	2.37
10	Industrial & Prudential	B	21.50
10	Industrial Cables	B	30.00
10	Industrial Cables	D	51.00
100	Industrial Cr. & Inv.	B	110.00
10	Industrial Credit	Bg.	8.50
100	Industrial Inv. Trust	B	105.00
10	Ingersoll-Rand	B	141.00
10	Inter-Continental Tdg.	D	2.50
10	International Combustion	B	24.00
10	International Combustion	C	26.50
10	International Commenter	D	7.00
10	International Computers	B	25.50
10	International Computers	D	23.25
10	International Conveyors	C	2.75
10	International Instrument	B	23.50
10	International Instrument	Bg.	22.25
10	International Instrument	D	22.00
10	Investment & Precision	B	4.00
100	Investment Corpn.	B	145.00
10	Investment Trust	M	20.00
10	Investors India	D	2.25
10	Ion Exchange	B	23.00
10	Ion Exchange	D	22.50
10	Ipco Paper	B	9.00
10	Ishwar Industries	D	9.62
2	Ivan Jones	C	0.12
10	**J.** J. Exporters	C	6.50
10	J. J. H. Industries	C	2.62
100	J. K. Chemicals	B	175.00
10	J. K. Cotton	B	33.00
10	J. K. Cotton	C	30.40
10	J. K. Cotton	D	31.00
10	J. K. Industries	B	13.50
10	J. K. Industries	C	13.75
10	J. K. Industries	D	13.12
10	J. K. Mfrs.	C	2.00
10	J. K. Satoh Agri.	C	4.50
10	J. K. Satoh Agri.	D	10.00
10	J. K. Synthetics	B	53.00
10	J. K. Synthetics	C	51.40
10	J. K. Synthetics	D	52.25
10	J. K. Traders	D	11.00
10	J. L. Morison	B	16.00
10	J. L. Morison	Bg.	14.50
10	JG Glass	B	8.00
10	JG Glass	D	8.12
10	Jaga Sea Foods	H	10.00
10	Jagatjit Cotton	C	18.12
10	Jagatjit Cotton	D	18.75
10	Jagatjit Industries	B	13.00
10	Jagatjit Industries	C	17.25
10	Jagatjit Industries	D	19.25
100	Jagatjit Sugar	D	77.00
10	Jai Commercial	D	2.00
5	Jaimor	D	5.00
10	Jain Sudh Vanas.	C	10.12
10	Jain Sudh Vanas.	D	17.50
10	Jain Tube Co.	D	14.75
100	Jaipur Investment	C	136.00
1000	Jam Shri Ranjit Mills	B	1400.00
10	Jamirah Tea	C	28.50
100	Jardine Henderson	C	46.00
10	Jasmine Investment	B	6.00
10	Jaswant Sugar	D	6.00
5	Jawahar Textile	M	10.50
10	Jay Electric Wires	B	18.00
10	Jay Eng. Works	C	17.81
10	Jay Eng. Works	D	18.87
10	Jayabharat	B	11.00
10	Jayam Trading	C	2.50
100	Jayant Paper	B	135.00
10	Jayant Vitamins	B	10.00
10	Jayant Vitamins	Mp.	12.00
10	Jaybirpara Tea	C	6.37
100	Jaypore Metal	D	40.00
10	Jaypore Spinning	D	10.00
10	Jaypore Sugar	M	15.25
10	Jaypore Syntex	C	12.00
10	Jaypore Syntex	D	10.25
10	Jaypore Udyog	B	3.24
10	Jaypore Udyog	C	2.81
10	Jaypore Udyog	D	3.00
10	Jayshree Chemicals	B	16.75
10	Jayshree Chemicals	C	20.75
10	Jayshree Tea & Ind.	B	40.25
10	Jayshree Tea & Ind.	C	39.75
10	Jayshree Tea & Ind.	D	38.50
10	Jeewanlal (1929)	C	5.00
10	Jeewanlal (1929)	M	2.50
10	Jesons Electronics	D	2.00
10	Jessop & Co.	C	1.81
10	Jet Age Trading Co.	C	2.90
10	Jiyajeerao Cotton	B	25.50
10	Jiyajeerao Cotton	C	25.25
10	Jiyajeerao Cotton	D	25.31
10	Jodhpur Woollen	C	4.37
10	John Fowler (India)	B	11.00
10	John Fowler (India)	Bg.	15.50
10	John Oakey & Mohan	C	13.00
10	John Oakey & Mohan	D	14.62
10	John Patterson	C	2.50
10	Jokai (India)	B	23.00
10	Jokai (India)	C	23.00
10	Jonas Woodhead	M	23.50
10	Joonktollie Tea	C	17.00
50	Jost's Eng.	B	36.00
10	Jotindra Steel	C	3.75
10	Jotindra Steel	D	29.50
10	Jupiter Breweries	B	7.25
10	Jupiter Breweries	C	8.31
10	Jutlibari Tea	C	23.00
100	Jyoti Electric	B	112.50
100	Jyoti Engineering	A	135.00
100	Jyoti Engineering	B	135.00
10	Jyoti Investment	C	10.00
100	Jyoti Switchgears	B	106.00
10	Jyotsna Investment	C	3.75
10	**K.** C. P. Sugar	M	31.25
10	K. G. Khosla	B	20.00
10	K. G. Khosla	D	19.00
10	K. G. Patil	B	13.75
10	K. I. C.	M	5.75
10	KSB Pumps	B	44.00
10	Kabini Paper	Bg.	10.00
10	Kabirdas Investment	C	10.00
10	Kabirdas Investment	D	10.00
10	Kadri Textile	M	3.00
100	Kadri Textile	M	30.00
2	Kailas Rubber	Bg.	5.60
2	Kailas Rubber	M	4.60
100	Kaira Can	B	109.00
100	Kaiser-I-Hind	A	275.00
2	Kalasa Tea	M	3.80
10	Kalimpong Produce	C	4.62
10	Kalpetta Rubber	B	14.25
10	Kalpetta Rubber	M	20.75
10	Kalyani Paper	D	10.00
10	Kalyanpur Lime	C	8.69
100	Kamala Sugar	M	51.00
10	Kamalakshmi Fin.	B	9.50
10	Kamani Eng.	B	82.00
100	Kamarhatty Jute	C	133.00
10	Kankariya Chemicals	A	16.75
10	Kankariya Chemicals	B	17.75
100	Kanknarrah Jute	C	41.00
10	Kannapiran Textile	M	6.00
10	Kanoria Chemicals	B	34.50
10	Kanoria Chemicals	C	36.62
10	Kanoria International	C	7.25
10	Kanoria Overseas	C	3.30
10	Kanoria Synthetics	C	6.25
10	Kanumanek Trading	B	8.50
10	Kap Steel	Bg.	29.00
10	Kar Valves	M	27.25
10	Karanpura Dev.	C	2.00
10	Kareem Cascami	Bg.	10.85
10	Karikode Rubber	M	10.25
10	Karnataka Explosives	B	11.00
10	Karnataka Explosives	Bg.	12.50
10	Karnataka Inv.	Bg.	6.00
10	Karnataka Oxygen	Bg.	10.00
10	Karnataka Scooters	B	5.00
10	Karnataka Scooters	Bg.	3.90
10	Karnataka Tdg. Corpn.	Bg.	6.25
10	Kartik Investment	B	10.00
100	Karunambikai Text.	M	70.00
10	Karunanidhi Investment	C	3.10
25	Karur Vysya Bank	M	28.85
25	Kasthuri Mills	M	16.50
10	Kasturi Paper	Bg.	10.30
100	Kathakhal Lala Rlys.	C	13.75
10	Katihar Jute	C	2.15
10	Kaveri Steels	Bg.	4.25
100	Kaycee Industries	B	86.00
10	Kaypee & Co.	C	2.50
10	Keltron Component	M	10.37
100	Kelvin Jute	C	50.00
10	Kelvinator of India	B	54.00
10	Kelvinator of India	D	52.00
200	Kemp & Co.	B	205.00
10	Kerala Acids	Bg.	10.00
10	Kerala Chemical	Bg.	10.00
10	Kerala Rubber	M	10.00
100	Kerry Jost	B	11.50
50	Kesar Sugar	B	81.00
10	Kesco Minerals	M	10.00
10	Kesoram Ind.	B	34.50
10	Kesoram Ind.	C	35.40
10	Kesoram Ind.	D	32.75
100	Kettlewell Bullen	C	75.00
100	Keytuo	B	85.00
10	Khammam Granite	C	5.00
10	Khammam Granite	H	10.00
100	Khandelwal Ferro Alloys	B	130.00
10	Khandelwal Hermann	B	7.50
250	Khandesh Mills	B	325.00
1000	Khandesh Mills	B	900.00
5	Khatau Junker	B	18.50
100	Khatau Mills	B	222.50
100	Khodiyar Pottery	B	110.00
10	Kidderpore Holdings	C	4.00
2	Kil Kotagiri Tea	M	4.20
100	Killick Nixon	B	430.00
10	Kinetic Eng.	B	106.00
10	Kiran Investment	C	3.55
100	Kirlampudi Sugar	M	55.00
25	Kirloskar Bros.	B	40.00
100	Kirloskar Cummins	B	395.00
10	Kirloskar Electric	Bg.	27.50
10	Kirloskar Electric	M	28.00
10	Kirloskar Oil Engine	B	27.00
10	Kirloskar Pneumatic	B	37.00
10	Kirloskar Pneumatic	D	36.75
100	Kirloskar Systems	Bg.	111.00
100	Kirloskar Systems	M	70.00
10	Kirloskar Tractors	B	15.25
10	Kirloskar Tractors	M	12.75
10	Kirti Investment	B	10.00
100	Kishore Trading	C	68.00
10	Kohinoor Investment	C	2.50
100	Kohinoor Mills	B	60.00
10	Kolleru Paper	H	10.00
10	Kolmak Chemicals	C	17.25
10	Konark Investment	C	2.50
10	Kothari (Madras)	B	37.50
10	Kothari (Madras)	Bg.	35.80
10	Kothari (Madras)	C	34.50
10	Kothari (Madras)	D	35.25
10	Kothari (Madras)	M	37.00
10	Kothari Plantations	C	11.00
10	Kothari Sugar	B	12.50
10	Kothari Sugar	Bg.	5.70
10	Kothari Sugar	M	11.85
10	Krishna Behari Tea	C	10.16
50	Krishna Rajendra Text.	M	26.00
10	Kulkarni Black & Decker	B	11.50
3	Kumardhubi Eng.	C	2.00
10	Kumardhubi Fire Clay	C	18.25
2	Kumargode Coffee	M	9.75
10	Kumbakonam Elec.	M	10.15
10	Kunal Engineering	B	38.00
10	Kunal Engineering	Bg.	48.00
10	Kunal Engineering	D	22.00
10	Kunal Engineering	M	51.75
10	Kurchermala Plantations	M	18.00
10	Kusum Products	C	45.00
10	Kutch Salt	B	2.40
10	Kyang Tea Seed	C	5.00
5	**L.** D. Textile	A	9.50
5	L. D. Textile	B	12.00
10	L. G. B. Bros.	Bg.	29.75
10	L. G. B. Bros.	M	31.50
10	Lacktoorah Tea	C	15.25
10	Lakhanpal National	B	49.00
10	Lakshmi Automatic	Bg.	15.75
10	Lakshmi Automatic	M	16.85
100	Lakshmi Machine	B	297.50
100	Lakshmi Machine	Bg.	190.00

4. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[5] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
100	Lakshmi Machine	M	433.00
50	Lakshmi Mills	Bg.	215.00
50	Lakshmi Mills	M	214.00
25	Lakshmi Mills "A"	Bg.	47.50
25	Lakshmi Mills "A"	M	105.00
10	Lakshmi Ratan Eng.	B	1.24
1000	Lakshmi Sugar	D	900.00
100	Lakshmi Vishnu Mill	B	82.00
10	Lakurka Coal	C	1.25
10	Lamp Caps	B	2.00
10	Larkspun Investments	D	2.70
10	Larsen & Toubro	B	52.25
10	Larsen & Toubro	Bg.	46.50
100	Lawrence Inv.	C	5.37
10	Laxmi Auto Loom	B	12.00
10	Laxmi Comm. Bank	D	30.00
100	Laxmi Starch	B	136.25
10	Laxmichand Bhagaji	A	2.50
10	Laxmichand Bhagaji	B	2.50
10	Light Roofings	M	5.05
2	Lingapur Coffee	Bg.	6.70
2	Lingapur Coffee	M	6.55
10	Lipton Tea	B	12.75
10	Lipton Tea	C	13.00
10	Lohia Machines	B	23.00
10	Lohia Machines	D	21.25
500	London Rubber	M	900.00
10	Long View Tea	C	7.50
10	Loobah Tea	C	18.12
50	Loyal Textile	M	200.00
10	Lucky Agencies	B	5.00
10	Lucky Valley Tea	M	28.00
10	Lynx Machinery	B	3.50
100	**M.** B. Commercial	C	94.00
10	M. M. Rubber	B	15.25
10	M. M. Rubber	Bg.	14.70
10	M. M. Rubber	M	14.75
10	M. P. Agro Morarji	B	9.00
10	M. P. Agro Morarji	Mp.	19.00
10	M. P. Electricals	B	3.50
10	MAC Investments	Bg.	9.50
10	MRF Ltd.	B	29.50
10	MRF Ltd.	Bg.	29.25
10	MRF Ltd.	C	33.00
10	MRF Ltd.	D	29.25
10	MRF Ltd.	M	29.50
5	Macfarlane & Co.	C	2.00
10	Machinery Mfrs.	B	32.00
10	Machinery Mfrs.	C	31.25
10	Mack Trading	B	9.00
10	Mackinnon Mackenzie	B	8.50
10	Mackinnon Mackenzie	C	8.00
10	Mackinnon Mackenzie	D	8.25
10	Macmillan	M	4.90
100	Macneil & Magor	C	105.75
10	Madan Industries	B	9.80
10	Madan Industries	C	4.25
10	Madan Industries	D	8.90
50	Madanpalle Spg.	H	35.00
100	Madhav Trading Co.	C	114.00
50	Madhavnagar Cotton	B	40.00
10	Madhu Intra Ltd.	C	4.06
10	Madhusudan Holdings	C	3.03
100	Madras Aluminium	B	80.00
100	Madras Aluminium	M	83.00
100	Madras Cement	B	70.00
100	Madras Cement	M	102.00
10	Madras Forgings	M	10.00
100	Madras Ind. Linings	M	167.00
100	Madras Machine Tools	B	55.00
100	Madras Machine Tools	M	58.00
100	Madras Oxygen	M	100.00
10	Madras Petrochemical	B	6.00
100	Madras Safe	M	125.00
10	Madras Spindles	M	10.00
100	Madras Spinners	M	100.00
3	Madras Vanaspati	M	3.50
10	Madura Coats	B	19.50
10	Madura Coats	M	20.50
10	Madura Sugar	M	12.50
100	Mafatlal Engg.	B	265.00
100	Mafatlal Fine	A	252.50
100	Mafatlal Fine	B	260.00
125	Mafatlal Ind.	A	527.00
125	Mafatlal Ind.	B	530.00
100	Mahabir Jute	C	11.00
10	Mahalakshmi Fibres	C	5.06
100	Maharaja Sree Umaid	C	156.00
2	Maharashtra Apex	Bg.	2.50
10	Maharashtra Electrosm.	B	6.25
10	Maharashtra Scooters	B	63.00
10	Maharashtra Steel	B	6.25
10	Maharashtra Steel	D	0.25
50	Maharashtra Sugar	B	52.00
10	Mahavir Spg. Mills	B	35.75
10	Mahavir Spg. Mills	D	36.00
100	Mahendra Electricals	A	161.25
100	Mahendra Electricals	B	161.25
100	Mahendra Mills	A	180.00
10	Mahendra Spicer	A	27.00
10	Mahendra Spicer	B	27.25
12½	Maheshwari Mills	A	415.00
10	Mahindra & Mahindra	B	44.00
10	Mahindra & Mahindra	C	43.90
10	Mahindra & Mahindra	D	44.00
10	Mahindra Ugine	A	59.50
10	Mahindra Ugine	B	64.00
10	Mahindra Ugine	C	52.50
10	Makum Tea	C	21.12
10	Malabar Agricultural	M	4.57
10	Malabar Industrial	M	15.00
10	Malabar Tdg.	B	5.00
10	Malankara Rubber	M	52.50
10	Malayalam Plantations	B	23.50
10	Malayalam Plantations	Bg.	23.75
10	Malhati Tea	C	8.50
10	Malwa Vanaspati	Mp.	17.00
10	Manabarrie Tea	C	27.00
1	Manar Tea	M	0.50
10	Mandovi Pellets	B	8.25
5	Mandya Nat. Paper	B	1.24
5	Mandya Nat. Paper	Bg.	2.80
200	Maneklal Harilal	A	475.00
10	Mangal Inv.	B	2.76
10	Mangalam Cement	B	17.50
10	Mangalam Cement	C	17.25
10	Mangalam Cement	D	16.75
10	Mangalore Chemical	B	9.00
10	Mangalore Chemical	Bg.	9.25
10	Mangalore Chemical	C	9.75
10	Mangalore Chemical	D	9.12
10	Mangalore Chemical	M	10.25
10	Manish Organics	A	16.75
2	Manjushree	M	9.30
10	Mansingka Indus.	D	4.50
10	Marathawada Alloys	B	15.00
10	Maratt Rubber	Bg.	11.00
10	Maratt Rubber	M	11.10
50	Marikar	M	60.50
10	Marktesh Tdg.	C	3.06
100	Marsden Spinning	A	90.00
2	Marshall (India)	C	0.95
10	Marshall Mfg.	C	10.00
10	Marshall Mfg.	M	6.00
10	Marthi Crystal	M	1.25
10	Martin Burn	C	3.62
10	Maruti Investment	C	4.18
10	Maschinen Polygraph	B	16.00
10	Mather & Platt	B	40.00
10	Mather & Platt	C	40.00
100	Matulya	A	442.50
10	Maud Tea	C	9.15
10	Maxi Exports	C	2.03
10	May & Baker	B	16.00
10	Mayurakshi Cotton	C	8.25
10	Mayurbhanj Trade	C	5.00
10	McDowell	M	44.50
100	McKenzies	B	1.50
100	McLeod & Co.	C	45.00
10	McNally Bharat Engg.	C	25.62
10	Mcleod Russel	B	14.50
10	Mcleod Russel	C	15.62
10	Medhawi Traders	C	3.25
10	Meena Air	B	7.00
10	Meena Steels	D	5.00
10	Meenakshi Oils	Bg.	5.00
10	Meenakshi Projects	C	3.50
10	Meghalaya Phyto	C	5.12
10	Meghalaya Plywood	C	10.50
10	Megna Jute	C	5.25
100	Melamine Fibre Board	A	260.00
10	Melcast India	C	9.06
10	Meltron Semicond.	B	19.00
10	Mercantile Cr. Corpn.	Bg.	9.40
10	Mercantile Cr. Corpn.	M	8.90
5	Mercara Rubber	M	10.00
5	Mercury Investment	C	2.45
10	Mercury Investment	D	3.80
10	Metal Box	B	19.75
10	Metal Box	C	19.20
10	Metal Distributors	C	7.12
10	Methoni Tea	C	10.37
100	Mettur Beardsell	M	169.00
10	Mettur Chemical	Bg.	16.00
10	Mettur Chemical	M	18.90
10	Mewar Fibre Holding	C	6.15
10	Mewar Sugar Mills	C	5.06
100	Mico Farm	M	180.00
10	Midland Rubber	B	15.25
10	Midland Rubber	M	17.50
85	Midnapore Comm.	C	51.75
10	Miles (India)	A	11.50
10	Miles (India)	B	11.00
10	Milk Food	B	14.25
10	Milk Food	D	15.00
100	Mim Tea	C	170.00
10	Mindia Chemical	B	9.50
10	Mindia Chemical	C	8.44
10	Mint Investment	C	4.00
10	Mipco Investment	B	3.50
10	Mirch Mirex	B	4.76
25	Mlamally	M	23.00
10	Modella Steels	B	18.50
10	Modella Woollens	B	9.50
10	Modern Converters	C	3.87
10	Modern Home	B	6.00
50	Modern Mills	B	55.00
10	Modern Proteins	H	10.00
10	Modern Suitings	B	19.00
10	Modern Suitings	D	15.25
10	Modern Syntex	B	26.00
10	Modern Syntex	D	24.00
10	Modi Carpets	D	10.00
10	Modi Industries	B	28.00
10	Modi Industries	D	28.00
10	Modi Rubber	B	30.00
10	Modi Rubber	D	29.56
10	Modi Spg. Mills	B	17.00
10	Modi Spg. Mills	C	23.94
10	Modi Spg. Mills	D	17.00
10	Modi Spg. Mills	M	16.25
10	Modi Textile Tdg.	D	5.50
10	Modipon	B	67.00
10	Modipon	D	66.00
5	Mohan Meakin Brew.	C	9.12
5	Mohan Meakin Brew.	D	8.50
10	Mohan Ortmann	D	4.50
10	Mohan Steel	B	10.25
10	Mohatta & Heckel	B	2.50
10	Moheema Tea	C	5.81
10	Mohta Electro Steel	D	5.00
10	Mohta Industries	B	24.00
10	Mohta Industries	D	24.50
10	Mohta Ispat	D	1.50
10	Molins of India	B	23.50
10	Molins of India	C	24.37
100	Monogram Mills	A	80.00
10	Monolith Investment	C	3.50
10	Monotype India	B	24.50
10	Monotype India	C	21.12
10	Moonstar Investment	B	2.60
10	Mopeds India	H	8.00
10	Mopeds India	M	26.00
10	Moradabad Spg.	D	5.06
10	Moradabad Water	C	2.00
10	Moran Tea	B	14.50
10	Moran Tea	C	14.00
100	Morarjee Mills	B	305.00
10	Morgan Walker Co.	C	2.87
10	Morgan Walker Jute	C	2.06
100	Mothola Co.	C	135.00
100	Motilal Hirabhai	A	81.00
10	Motor & General Finance	B	19.50
10	Motor & General Finance	D	29.50
100	Motor Industries	B	462.50
100	Motor Industries	Bg.	472.50
10	Motor Sales Ltd.	C	9.50
10	Mozufferpore Elec.	C	7.00
10	Mudit Investment & Tdg.	C	3.25
10	Mukund Iron	B	22.50
10	Mukund Iron	C	22.50
10	Mukund Iron	D	21.00
10	Muller & Phipps	B	7.50
10	Multilateral Finance	C	2.50
10	Multimetals Ltd.	C	9.31
10	Murphulani Tea	C	18.25
10	Murphulani Tea P.O.	C	18.50
5	Mushrooms	Bg.	5.25
10	Muttra Electric	C	3.85
10	Muzaffarnagar Steel	B	13.00
100	Mysore Acetate & Chemical	Bg.	30.50
5	Mysore Amal. Coffee	M	7.50
10	Mysore Breweries	Bg.	14.00
10	Mysore Cement	B	25.50
10	Mysore Cement	Bg.	25.75
10	Mysore Cement	M	26.00
10	Mysore Chem. Mfrs.	Bg.	8.00
10	Mysore Chem. Mfrs.	M	3.10
10	Mysore Chrome	Bg.	4.50
2	Mysore Coffee	Bg.	3.00
2	Mysore Coffee	M	4.40
10	Mysore Coffee Curing	Bg.	10.87
10	Mysore Coffee Curing	M	7.42
100	Mysore Elec. Ind.	Bg.	29.00
10	Mysore Electro Chemical	Bg.	5.20
10	Mysore Electro Chemical	M	4.90
100	Mysore Kirloskar	B	255.00
100	Mysore Kirloskar	Bg.	182.00
10	Mysore Lac & Paints	Bg.	25.50
10	Mysore Lamps	Bg.	18.50
10	Mysore Lamps	M	24.50
10	Mysore Machinery Mfrs.	Bg.	3.90
10	Mysore Paper	B	9.50
10	Mysore Paper	Bg.	8.30
10	Mysore Paper	C	12.75
10	Mysore Paper	M	8.90
10	Mysore Petro Chemicals	B	15.50
10	Mysore Petro Chemicals	Bg.	15.40
10	Mysore Petro Chemicals	C	15.56
10	Mysore Plantation	M	25.50
10	Mysore Snack Foods	Bg.	13.00
10	Mysore Stoneware	Bg.	7.50
10	Mysore Stoneware	M	9.76
10	Mysore Sugar	Bg.	10.20
10	Mysore Sugar	M	9.50
10	Mysore Tobacco	Bg.	3.00
10	Mysore Tobacco	M	6.15
2	Mysore Veg. Oil	Bg.	4.70
50	**N**adiad Electric	B	55.00
10	Naga Hills Tea	C	13.00
10	Nagarjuna Steels	H	13.50
500	Nagri Mills	A	760.00
100	Naihati Jute	C	45.00
10	Namburnadi Tea	C	10.62
10	Namdang Tea	C	22.50
10	Nandanvan Investment	Bg.	10.00
250	Nandlal Bhandari	Mp.	100.00
85	Narang Industries	D	16.00
10	Narendra Explosives	B	8.50
10	Narendra Explosives	D	8.00
10	Narottam Investment	C	2.40
10	Naskarpara Jute	C	4.00
1	National Cereals Products	C	2.06
10	National Eng.	D	16.00
10	National Eng.	Mp.	10.50
10	National Ins. Cables	C	17.50
10	National Newsprint	B	5.00
100	National Organic Chemical	A	215.00
100	National Organic Chemical	B	233.00
100	National Organic Chemical	C	222.00
10	National Pipes & Tubes	C	2.37
100	National Radio	B	45.00
100	National Rayon	A	365.00
100	National Rayon	B	380.00
10	National Rolling	C	17.25
10	National Rubber	C	0.85
10	National Screw Wire	C	0.44
100	National St. Duncan	B	188.00
100	National St. Duncan	C	198.00
10	National Tannery	C	1.84
10	Navbharat Refri.	D	10.25
10	Navbharat Vanijya	C	7.56
10	Navin Agro Indus.	C	4.50
100	Navsari Cotton	B	185.00
10	Navyug Investment	B	2.76
100	Nawabganj Sugar 'A'	D	40.00
10	Nawabganj Sugar 'B'	D	5.00
5	Neelamalai	M	5.80
10	Neeraj Consultants	C	9.75
10	Negapatam Electric	M	12.75
10	Neiveli Ceramics	M	19.10
2	Nelliampathy Tea	B	3.16
2	Nelliampathy Tea	M	3.35
10	Nellimarla Jute	C	11.50
10	Nenmeny Inv.	M	10.50
10	Neomar Ltd.	A	6.50
10	Neomar Ltd.	B	6.00
5	New Bank of India	Bg.	8.00
5	New Bank of India	D	15.12
10	New Central Jute	B	4.88
10	New Central Jute	C	4.94
10	New Chumta Tea	C	8.50
100	New City Mills	B	135.00
50	New Comm. Mills	A	163.00
100	New Cotton Mills	A	210.00

5. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[6] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	New Delhi Indl. Pro.	C	4.15
10	New Delhi Indl. Pro.	D	4.75
100	New Great Eastern Mills	B	122.50
250	New Gujarat	A	1120.00
100	New India Fisheries	B	110.00
100	New India Ind.	B	200.00
75	New India Inv.	C	29.50
10	New India Sugar	C	27.50
200	New Jehangir Mills	A	105.00
10	New Look Investment	C	5.00
100	New Rajpur Mills	A	500.00
10	New Samanbagh Tea	C	1.15
10	New Savan Sugar	C	0.77
100	New Standard Eng.	A	122.00
100	New Standard Eng.	B	130.00
100	New Swadeshi Mills	A	450.00
100	New Swadeshi Mills	B	65.00
100	New Swadeshi Sugar	B	205.00
10	New Terai Tea	C	39.15
10	Nicholas Lab.	B	23.00
100	Nila Products	A	90.00
10	Nilambur Tea	M	16.50
10	Nilgiri Tea	Bg.	5.00
10	Nilgiri Tea	M	9.00
10	Nilhat Shipping	B	10.50
10	Nilhat Shipping	C	9.81
100	Nimar Mills	B	28.00
10	Nirlon	B	71.50
25	Nizam Sugar	H	16.00
10	Noble Trading Co.	C	2.19
4	Nonsuch Tea	Bg.	8.50
4	Nonsuch Tea	M	12.00
10	North Bihar Sugar	C	8.06
10	North Brook Jute	C	4.00
100	North West Cachar Tea	C	74.00
10	North West Coal	C	0.85
10	Northern India Hotels	D	10.00
10	Novin Udyog	C	3.31
10	Novopan India	H	10.00
10	Nuchem Plastics	D	20.00
10	Nuddea Jute	C	6.44
100	Nutan Mills	A	202.50
10	**O**ceanic Investment	B	5.00
100	Okayti Tea	C	280.00
10	Olympic Gen. Trading	C	4.90
100	Omega Cables	B	25.00
100	Omega Cables	M	25.00
10	Omni Holdings	C	3.31
10	Ondal Investment	C	14.10
10	Oodlabari Tea	C	9.56
10	Orchid Tdg.	C	3.00
10	Orient Abrasives	B	23.50
10	Orient Abrasives	C	24.12
10	Orient Abrasives	D	24.50
10	Orient Beverages	B	2.50
10	Orient Beverages	C	7.12
10	Orient Ceramics	B	10.50
10	Orient Ceramics	D	6.00
50	Orient Movietone	C	47.00
10	Orient Paper Ind.	B	47.00
10	Orient Paper Ind.	C	46.25
10	Orient Steel	C	5.75
10	Oriental Carbon	B	15.50
10	Oriental Carbon	C	19.12
10	Oriental Carbon	D	16.00
10	Oriental Carpet Mfg.	C	20.25
10	Oriental Carpet Mfg.	D	30.00
100	Oriental Co.	C	107.00
10	Oriental Coal	C	0.15
10	Oriental Hotels	B	24.00
10	Oriental Hotels	M	24.00
100	Oriental Industrial	B	75.00
100	Oriental Power	B	99.00
10	Orissa Cement	B	38.50
10	Orissa Cement	C	39.60
10	Orissa Cement	D	39.00
10	Orissa Cement	M	33.25
10	Orissa Industries	B	5.00
10	Orissa Industries	C	5.25
10	Orissa Minerals	C	1.70
10	Orissa Textile Mills	C	1.37
10	Oscar Investment	B	5.00
2	Ossoor Coffee	Bg.	3.05
2	Ossoor Coffee	M	6.25
10	Otis Elevator	B	62.00
100	Oudh Sugar	B	173.75
10	**P.** R. S. Steels	B	11.50
10	PNB Finance	C	12.00
10	PNB Finance	D	13.25
10	Padmanabha Inv.	M	10.00
10	Pahargoomiah Tea	C	17.75
10	Palani Andavar Mills	M	12.00
1	Panchura Tea	M	3.25
100	Pandyan Hotels	M	100.00
10	Panipat Foods	D	0.50
10	Pankaj Investment	C	10.00
10	Panorama Tdg.	C	2.03
100	Panyam Cement	B	170.00
100	Panyam Cement	Bg.	145.00
100	Panyam Cement	H	175.00
100	Panyam Cement	M	168.00
100	Paper & Pulp	B	120.00
100	Paper Mill Plant	B	75.00
100	Paper Products	B	180.00
100	Paper Products	D	180.00
10	Parekh Dist.	B	5.00
10	Parijat Investment	C	2.75
10	Parikh Eng. & Body	C	9.00
10	Parkside Tea	M	29.00
1	Parry's Confectionery	M	1.55
25	Parshuram Pottery	B	26.00
125	Patell Mills	A	550.00
10	Pathemara Tea	C	25.12
10	Patna Electric	C	8.50
100	Patrakola Tea	C	75.00
10	Paushak	A	9.25
10	Paushak	B	9.25
10	Pearl Investment	C	1.35
10	Peermade Tea	M	33.00
10	Peico Electronics	C	30.50
10	Peirce Leslie	M	14.10
10	Pench Valley Coal	C	1.00
100	Penguin Textile	H	75.00
100	Penguin Textile	M	100.00
10	Peninsular Rubber	M	13.25
10	People's Investment	B	10.15
10	Perfect Circle	B	15.50
10	Perfect Circle	D	26.00
50	Perfect Potteries	Mp.	40.00
100	Perfect Potteries M.B.	Mp.	125.00
10	Perfectpac	B	28.50
10	Perfectpac	C	27.00
10	Perfectpac	D	30.00
2	Peria Karamalai	M	3.40
10	Periyar Chemicals	M	14.30
100	Permanent Magnets	B	115.00
10	Pesticides	B	4.00
10	Pfizer	B	25.25
50	Phaltan Sugar	B	31.00
100	Phaskowa Tea	C	101.00
10	Phillips Carbon	B	34.50
10	Phillips Carbon	C	34.50
10	Phillips Carbon	D	44.00
100	Phoenix Mills	B	45.00
100	Phosphate Co.	C	145.00
10	Pilani Investment	D	16.75
10	Pilani Investment	Mp.	16.25
10	Pine Chemicals	B	12.75
10	Pine Chemicals	D	11.87
10	Pink City Inv.	C	2.25
10	Piramal Electronics	B	5.00
10	Piramal Rasayan	A	22.50
10	Piramal Rasayan	B	23.00
10	Piramal Spg.	A	31.00
10	Piramal Spg.	B	29.00
10	Piramal Steel	B	103.00
10	Plastic Products	D	6.25
10	Plastic Resins	M	10.75
10	Platewel	A	6.25
10	Platewel	B	6.25
10	Podar Mills	B	11.50
10	Podar Silks & Synt.	B	8.00
10	Poddar Projects	B	3.24
10	Poddar Projects	C	6.03
10	Polar Investment	Bg.	10.50
100	Polson	B	80.00
50	Polychem	B	74.00
10	Polymer Paper	B	10.25
10	Polymers Corpn.	A	11.00
10	Polymers Corpn.	B	12.75
100	Polyolefins Ind.	A	320.00
100	Polyolefins Ind.	B	355.00
10	Pond's (India)	B	75.00
10	Pond's (India)	M	76.00
10	Pondicherry Papers	M	10.75
10	Poobang Tea	C	4.50
10	Poona Ind. Hotel	B	14.00
10	Poona Ind. Hotel	Bg.	12.50
5	Poonmudi Agencies	M	3.75
10	Porritts & Spencer	D	15.75
10	Port Shipping Co.	C	17.06
10	Poysha Industrial	B	15.00
100	Prabhat Udyog	B	30.00
10	Pradyumana Steel	C	3.03
10	Prajeev Invest.	C	5.62
10	Pranay Inv.	Mp.	10.15
250	Prasad Mills	A	200.00
10	Prashant Inv.	C	6.94
10	Pratap Holdings	C	9.56
10	Pratap Rajasthan	D	14.00
10	Pratibha Inv.	C	2.56
100	Precision Bearings	A	165.00
100	Precision Bearings	B	165.00
10	Precision Jewels	B	13.50
100	Premier Automobiles	B	163.00
100	Premier Breweries	M	96.50
10	Premier Cables	B	10.52
10	Premier Cables	D	16.00
10	Premier Cables	M	10.00
60	Premier Const.	B	68.00
10	Premier Cotton	Bg.	26.75
100	Premier Cotton	Bg.	240.00
100	Premier Cotton	M	242.50
10	Premier Cotton	M	26.25
100	Premier Die Casting	A	90.00
10	Premier Fertilizers	M	1.80
10	Premier Instruments	Bg.	13.75
10	Premier Instruments	M	14.25
100	Premier Mills	Bg.	327.00
100	Premier Mills	M	240.00
100	Premier Paper	B	80.00
10	Premier Roller	M	7.26
10	Premier Synthetics	B	3.76
100	Premier Tyres	B	101.00
5	Presidency Jute	C	1.90
10	Press Metal	B	38.00
10	Press Metal	M	28.00
10	Pressure Cookers	B	39.25
10	Pressure Cookers	D	40.00
10	Prestolite of India	D	5.00
100	Promain Ltd.	D	10.00
10	Protein Products	B	6.00
10	Protein Products	M	5.20
4	Publicity Society	C	1.87
100	Pudukotah Mills	M	35.00
10	Pudumjee Pulp	B	23.00
2	Pullangode Rubber	M	9.05
100	Pullicear Textile	M	75.43
10	Punalur Paper	B	7.75
10	Punalur Paper	C	6.44
10	Punalur Paper	D	5.75
10	Punalur Paper	M	5.50
50	Punjab & Sind Bank	D	75.00
10	Punjab Anand Batteries	B	23.00
10	Punjab Anand Batteries	D	25.25
10	Punjab Breweries	B	6.00
10	Punjab Breweries	D	5.75
10	Punjab Concast Steel	D	39.00
100	Punjab Produce	D	115.00
100	Punjab Sugar	D	115.00
10	Punjab Tractors	B	68.00
10	Punjab Tractors	D	67.00
10	Punjab United Pesticides	B	24.00
10	Punjab United Pesticides	D	32.00
10	Punjab Woolcombers	B	16.00
10	Punjab Woolcombers	D	17.00
10	Purna Investments	C	3.00
10	Purtabpore	C	6.90
10	Pussimbing Tea	C	7.62
1	Puthutotam Coffee	M	4.75
10	Putinbaree Tea	C	16.12
10	**Q**uality Inv.	C	1.62
10	**R.** B. Rodda & Co.	C	11.00
100	R. Choodambikai	M	75.00
10	R. G. Ispat Ltd.	C	17.00
10	R. G. Ispat Ltd.	D	40.00
100	R. J. Shah	B	85.00
10	R. V. Invest. & Dealer	C	4.12
10	Rachna Inv.	C	5.06
25	Radhakrishna Text.	M	35.00
10	Radhika Exports	C	6.00
5	Radio & Electric	M	1.05
10	Raghav Comm.	C	2.50
100	Raghuvanshi Mills	B	153.75
100	Raigarh Tdg. Co.	D	19.75
100	Raipur Textile	A	255.00
10	Raipur Wires	B	24.50
10	Raj Prakash Chem.	A	11.25
100	Rajabahadur Poona	B	165.00
10	Rajabhat Tea	C	8.12
10	Rajagiri Rubber	B	13.24
10	Rajagiri Rubber	M	18.75
50	Rajalakshmi Text.	M	87.00
100	Rajapalayam Text.	M	176.50
10	Rajasthan Glyoxal	B	12.50
10	Rajasthan Glyoxal	D	12.75
10	Rajasthan Spg. & Wvg.	B	33.00
10	Rajasthan Spg. & Wvg.	C	31.75
10	Rajasthan Spg. & Wvg.	D	33.00
10	Rajasthan Synthetics	C	1.56
10	Rajasthan Vanaspati	D	4.37
10	Rajat Inv.	C	3.00
5	Rajendra Coffee	M	34.00
10	Rajgarh (Assam) Tea	C	35.50
50	Rajkumar Mills	Mp.	75.00
10	Rajprakash Chem.	B	11.50
10	Rajputana Invest.	C	7.50
100	Ralli Machine	B	15.00
100	Rallis India	B	180.00
100	Rallis India	C	183.00
100	Rallis India	M	194.00
10	Ram Kishan Ispat	B	10.50
10	Rama Fibres	B	13.00
5	Rama Fibres	D	6.87
10	Ramacast Ltd.	C	8.50
10	Ramacast Ltd.	D	5.12
100	Ramakrishna Mills	M	53.64
10	Ramakrishna Mills	M	2.19
100	Ramaraju Surgical Cotton	M	153.00
10	Rameshwara Jute	C	17.50
250	Ramkrishna Mills	A	425.00
10	Ramnarayan Textile	M	3.47
10	Ramnugger Cane & Sugar	C	9.00
10	Ramon & Demm	A	16.25
10	Ramon & Demm	B	16.50
10	Ramon Engg.	B	5.75
10	Rampur Distilleries	D	4.00
10	Ranakpurji Invest.	C	1.60
10	Ranbaxy Laboratory	B	22.00
10	Ranbaxy Laboratory	D	23.00
5	Rane (Madras)	B	12.50
5	Rane (Madras)	M	14.75
10	Rane Brake	M	26.25
10	Raneegunge Coal	C	1.06
10	Rangkala Invest.	B	5.00
10	Ranicherra Tea	C	9.50
10	Ranisati Prop.	C	2.25
10	Rapid Invest.	B	10.00
10	Rasoi Vanaspati	B	29.00
10	Rasoi Vanaspati	C	31.75
10	Rasoi Vanaspati	D	30.00
10	Rathi Alloys & Steel	B	25.75
10	Rathi Alloys & Steel	D	25.00
10	Rathi Gases	B	17.00
10	Rathi Gases	D	19.75
10	Rathi Ispat	D	10.25
10	Rathi Ministeel	D	1.95
10	Rathi Udyog	D	10.50
10	Ratna Comm.	C	3.00
10	Ratna Sugar	C	6.65
10	Ratnakar Shipping	B	34.00
10	Ratnakar Shipping	C	32.25
10	Raunaq Int.	D	10.25
50	Ravalgaon Sugar	B	40.00
10	Ravi Industrial Pr.	D	3.00
10	Ravindra Steel	C	9.50
10	Raw Jute Trading	C	4.03
100	Rayalasseema Text.	M	65.00
10	Raymond Woollen	B	45.00
10	Raymond Woollen	C	42.00
10	Raymond Woollen	D	41.75
10	Raza Bulund Sugar	C	2.00
10	Raza Textile Mills	D	14.50
10	Reckitt & Colman	B	25.00
10	Reckitt & Colman	C	26.15
5	Refrigeration Acc.	C	3.00
10	Regal Papers	D	6.00
10	Regent Estate	C	1.00
10	Reliance Chemotex	B	9.00
10	Reliance Chemotex	C	11.00
10	Reliance Firebricks	C	3.75
10	Reliance Ind.	A	96.75
10	Reliance Ind.	B	96.75
10	Reliance Ind.	Bg.	95.00
10	Reliance Ind.	C	92.00
10	Reliance Ind.	D	96.00
10	Reliance Ind.	M	96.50

6. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[7] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	Reliance Jute	C	17.12
10	Remington Rand	B	24.00
10	Remington Rand	C	24.25
10	Revathi-CP	B	27.00
10	Revathi-CP	M	27.00
10	Rewa Coalfields	C	10.00
10	Rewa Drugs	B	14.50
10	Rexroth-Maneklal	A	21.00
10	Rexroth-Maneklal	B	21.00
10	Richardson Hindustan	B	33.00
7½	Rishabh Ispat	B	3.24
10	Rishra Invest.	C	3.19
100	Roberts Mclean	C	68.00
100	Rockweld Electrode	M	90.00
100	Rohit Mills	A	237.50
100	Rohit Pulp & Paper	B	190.00
10	Rohtas Industries	B	4.50
10	Rohtas Industries	C	4.80
10	Rohtas Industries	D	4.75
100	Rolcon Engg.	A	220.00
100	Rolcon Engg.	B	220.00
10	Rollatainers	B	27.00
10	Rollatainers	C	26.50
10	Rollatainers	D	32.00
10	Roneo Vickers India	D	1.00
10	Roopacherra Tea	C	8.00
10	Roplas (India)	B	60.00
10	Rose Invest.	B	5.00
25	Ruby Mills	B	60.00
10	Rukmani Metals	D	22.00
10	Rungamatee Tea	C	2.60
10	Russel Const.	C	3.44
10	Rustagi Trading	B	5.00
50	Rustom Mills	A	160.00
10	Ruston & Hornsby	B	25.00
10	Ryam Sugar	C	3.69
10	Rydak Tea	C	42.00
5	5 S. Ltd.	C	5.75
10	5 S. Ltd.	D	5.87
10	**S.** & S. Bushings	Bg.	34.00
10	S. & S. Bushings	M	25.75
20	S. G. Invest.	C	15.00
10	S. G. S. Invest.	C	2.37
10	S. N. Sunderson	C	14.25
10	S. N. Sunderson	D	13.00
10	S. R. P. Tools	M	18.25
10	S. S. Miranda	B	12.50
10	S. V. Trading	B	5.50
10	SAE (India)	D	41.00
100	SLM-Maneklal	A	225.00
100	SLM-Maneklal	B	180.00
10	Sadhna Nitro	B	24.00
10	Saffron Invest.	D	2.80
10	Sagar Invest.	B	3.00
10	Sahayak Finance	H	1.90
10	Sahney Paris	H	10.00
10	Sahu Jain	D	10.19
5	Sahu Properties	C	2.50
100	Sajjan Mills	Mp.	125.00
10	Saket Exporters	A	6.00
10	Sakthi Sugar	B	15.50
10	Sakthi Sugar	M	17.50
10	Salem-Erode Elec.	M	20.00
10	Samridhi Invest.	C	4.75
10	Sandeep Investment	C	4.00
10	Sandoz	B	46.00
10	Sandur Manganese	Bg.	12.00
100	Sandur Manganese	Bg.	100.00
100	Sandvik Asia	B	395.00
10	Saneh Industrial	C	6.00
10	Sangam Invest.	C	5.00
2	Sangameshwar Coffee	Bg.	4.10
2	Sangameshwar Coffee	M	3.80
10	Sanjoy Investment	C	3.06
10	Sankey Wheels	B	12.75
10	Sankey Wheels	C	13.56
10	Sankheshwar Holding	D	5.00
10	Sapoi Tea	C	9.30
8	Saran Engineering	C	8.25
10	Sarang Viniyog	C	2.81
200	Sarangpur Cotton	A	315.00
100	Saraspur Mills	A	190.00
10	Saraswathi Textile	M	2.25
100	Saraswati Ind. Synd.	D	150.00
100	Saraswati Mktg.	D	10.00
10	Saraswati Steel	B	6.25
10	Saraswati Steel	D	5.50
10	Saroj Alloys	B	12.00
10	Saroj Alloys	Bg.	14.40
10	Saroja Textile	M	10.00
10	Saru Engineering	D	1.00
10	Sarvaraya Text.	M	5.25
10	Sashi Comm.	C	2.25
100	Sathe Biscuits	B	70.00
10	Satya Invest.	C	2.56
100	Saurashtra Cement	B	140.00
2	Savamalai Coffee	M	11.00
100	Sayaji Mills	A	182.50
10	Schrader Scovill	B	29.00
10	Schrader Scovill	C	34.50
10	Schrader Scovill	D	34.00
100	Scientific Instruments	C	90.00
20	Scindia Steam Navigation	B	28.50
10	Scooters India	B	10.25
10	Scooters India	D	10.50
10	Scottish Assam	C	9.00
10	Searle (India)	B	40.00
10	Searsole Chem.	B	12.75
10	Searsole Chem.	D	13.00
10	Secals	B	30.00
10	Secals	M	24.35
10	Security Co.	C	4.87
10	Seeyok Tea	C	3.06
10	Sehgal Papers	B	10.00
10	Sehgal Papers	Bg.	8.25
10	Sehgal Papers	D	9.00
10	Seksaria Foundaries	C	2.75
10	Sen-Releigh	C	2.70
10	Sendra Investment	C	5.06
10	Senilis Trading Syn.	C	2.12
10	Seshasayee Ind.	M	21.25
10	Seshasayee Paper	B	12.50
10	Seshasayee Paper	Bg.	12.00
10	Seshasayee Paper	C	13.50
10	Seshasayee Paper	M	12.75
10	Seven Seas	B	15.50
10	Seven Seas	D	14.50
10	Sh. Protein & Foods	B	6.75
100	Shah Construction	A	61.00
100	Shah Construction	B	61.00
10	Shah Malleable Castings	B	14.00
10	Shahjahanpur Elec.	C	2.00
10	Shaktigarh Text. Ind.	C	5.06
10	Shalimar Holdings	D	2.75
10	Shalimar Paints	C	16.81
10	Shalimar Rope	C	13.06
10	Shalimar Wires	C	15.75
10	Shama Engine Valve	D	6.00
10	Shantnu Invest.	D	5.00
10	Sharma Vanijya	C	2.94
10	Sharp Invest.	C	1.20
10	Shauma Vanijya	C	5.00
10	Shaw Wallace	C	34.80
100	Shethia Mining	B	5.76
2	Sheveroys Coffee	M	3.50
10	Shibir India	C	3.25
10	Shimoga Steel	Bg.	12.00
10	Shiv Investments	C	4.25
10	Shiva Paper	D	6.75
10	Shivaji Works	B	18.00
10	Shivalik Agro	D	10.50
10	Shivmoni Steel	B	7.00
10	Shivmoni Steel	Bg.	8.50
10	Shraddha Invest.	C	2.05
10	Shree Rajasthan Syntex	D	7.62
10	Shri Ambica Jute	C	7.00
10	Shri Ambuja Petro.	A	12.00
10	Shri Ambuja Petro.	B	12.00
10	Shri Ambuja Petro.	H	11.00
10	Shri Badrinath Invest.	C	4.50
10	Shri Bhawani Text.	C	5.00
10	Shri Bhawani Text.	D	4.25
10	Shri Chamundeswari	Bg.	8.00
10	Shri Chamundeswari	M	7.40
12½	Shri Changadeo Sugar	B	8.00
10	Shri Dhoot Trading	B	10.50
100	Shri Digvijay Cement	B	155.00
100	Shri Digvijay Cement	D	157.00
10	Shri Digvijay Woollen	B	45.00
10	Shri Digvijay Woollen	D	11.62
100	Shri Dinesh Mills	A	350.00
100	Shri Dinesh Mills	B	370.00
10	Shri Durga Agency	C	3.05
10	Shri Ganga Cold Storage	C	5.25
10	Shri Gopal Inv.	C	5.06
10	Shri Hanuman Sugar	C	5.25
10	Shri Krishna Gyano.	C	5.50
10	Shri Krishna Gyano.	D	6.50
50	Shri Krishna Rajendra	Bg.	43.00
10	Shri Madhusudan Mill	C	2.69
10	Shri Mahavir Ispat	B	1.24
10	Shri Mahavir Ispat	C	1.60
10	Shri Mansingka Oil	D	4.25
10	Shri Manufacturing	C	12.00
20	Shri Meenakshi Mill	M	6.00
10	Shri Meenakshi S. Mills	Bg.	8.00
100	Shri Niwas Cotton	B	92.00
100	Shri Niwas Cotton	C	95.00
10	Shri Padmanabha Invest.	C	2.56
10	Shri Rajendra Mills	M	7.00
10	Shri Ram Bearings	B	37.50
10	Shri Ram Bearings	C	34.12
10	Shri Ram Bearings	D	35.00
10	Shri Ram Fibres	B	31.00
10	Shri Ram Fibres	D	29.50
10	Shri Ram Fibres	M	31.00
100	Shri Ram Mills	B	95.00
10	Shri Ram Piston	D	15.00
10	Shri Ram Refri.	D	27.00
100	Shri Ramakrishna St.	M	125.00
100	Shri Rameshwar P. Inv.	C	101.00
10	Shri Rani Sati Invest.	B	8.50
10	Shri Rayalaseema Paper	B	10.25
10	Shri Rayalaseema Paper	H	10.00
10	Shri Risabh Inv.	D	0.25
10	Shri Sarvaraya Sugar	M	7.18
10	Shri Satyanarayana	M	10.00
10	Shri Shri Lokenath	C	5.00
10	Shri Sitaram Sugar	C	5.00
10	Shri Synthetics	B	40.50
10	Shri Synthetics	C	38.50
10	Shri Synthetics	D	39.00
10	Shri Synthetics	Mp.	28.00
100	Shri Vallabh Glass	A	517.50
100	Shri Vallabh Glass	B	530.00
100	Shri Valliappa Text.	Bg.	93.33
100	Shri Valliappa Text.	M	85.00
10	Shri Vindhya	D	5.10
10	Shri Vindhya Paper	B	9.00
10	Shripati Dist.	C	3.25
10	Sicca Breweries	B	11.00
10	Sicca Breweries	M	10.90
10	Siddharth Comm.	C	2.00
10	Siddhartha Ferro Alloys	C	7.00
10	Siemens India	B	53.00
10	Sijua (Jherriah) Elec.	C	2.37
100	Silver Cotton	A	400.00
10	Silver Trading	C	2.50
10	Silvertone Invest.	C	3.12
10	Simco Meters	B	18.85
10	Simco Meters	Bg.	10.50
10	Simco Meters	M	24.50
10	Simon Carves	B	18.00
10	Simon Carves	C	19.00
50	Simplex Mills	B	71.50
100	Singell Tea	C	20.00
100	Siporex	B	108.00
100	Sirdar Carbonic Gas	B	177.50
10	Sirpur Paper	B	22.25
10	Sirpur Paper	C	22.00
10	Sirpur Paper	D	15.50
10	Sirpur Paper	H	22.00
10	Sirsilk Limited	C	6.25
10	Sirsilk Limited	D	7.87
10	Sirsilk Limited	H	5.75
10	Sita Invest.	C	4.06
10	Sivanandha Pipe	M	10.60
100	Sivnandha Steel	M	146.00
10	Sivnandha Textile	M	15.00
10	Siyaram Silk	A	26.50
10	Siyaram Silk	B	26.00
10	Skol Breweries	B	20.00
5	Smith Stanistreet	C	0.26
100	Snail Spanners	B	101.00
10	Snowtemp Engg. Co.	C	3.75
10	Snowtemp Engg. Co.	D	0.60
10	Solid Containers	B	8.25
10	Solid State Devices	H	10.00
10	Soma Investments	C	4.10
100	Somaiya Organic	B	111.00
10	Somani Ferro Alloys	C	10.00
10	Somani Steels	B	12.00
10	Somani Steels	D	3.25
10	Somany Pilkington	C	31.50
10	Somany Pilkington	D	31.25
10	Sonai River Tea	C	2.81
5	Sone Valley Cement	C	2.12
10	Sooraj Steel	C	6.00
100	South India Shipping	B	360.00
100	South India Shipping	M	409.00
10	South India Sugar	M	4.10
100	South India Viscose	B	240.00
100	South India Viscose	M	238.00
10	South India Wires	M	4.50
10	South Karanpura Coal	C	0.50
10	Southern Agrifurane	C	7.00
10	Southern Agrifurane	M	8.70
100	Southern Asbestos	M	320.00
10	Southern Castings	Bg.	10.90
100	Southern Gas	B	70.00
10	Southern Ind. Corpn.	B	2.00
10	Southern Ind. Corpn.	M	3.00
10	Southern Nitro	B	9.75
10	Southern Nitro	M	11.75
10	Southern Petro Chem.	B	11.25
10	Southern Petro Chem.	Bg.	11.00
10	Southern Petro Chem.	C	11.06
10	Southern Petro Chem.	D	11.25
10	Southern Petro Chem.	M	11.30
10	Southern Steel	C	4.00
10	Southern Steel	H	10.00
10	Southern Steelmat	Bg.	18.00
10	Southern Steelmat	C	6.50
100	Southern Trawling	Bg.	100.00
100	Southern Trawling	M	100.00
10	Spaceage Products	D	7.50
100	Special Steel	B	107.50
10	Speciality Paper	B	9.25
10	Spencer & Co.	M	64.00
10	Sreela Chem. Ind.	C	2.00
10	Sta-Rite Inv.	B	5.00
10	Stable Trading Co.	C	3.12
100	Standard Batteries	B	101.00
100	Standard Mills	A	539.00
100	Standard Mills	B	572.00
10	Standard Motors	B	10.25
10	Standard Motors	M	18.00
10	Stanes Amalgamated	M	13.75
100	Star Company	C	77.00
50	Star Investment	C	24.75
10	Star Machinery	A	17.50
10	Star Machinery	B	19.25
10	Star Paper	B	14.75
10	Star Paper	C	14.56
10	Star Paper	D	17.06
10	Star Textile Eng.	B	41.00
25	Star Trading Inv.	C	11.50
100	State Bank of Bikaner	B	50.00
100	State Bank of India	B	290.00
100	State Bank of Indore	Mp.	106.00
100	State Bank of Mysore	Bg.	107.00
100	State Bank of Mysore	M	105.00
100	State Bank of Travancore	M	80.00
10	Steel & Allied Prod.	B	1.50
10	Steel & Allied Prod.	C	2.00
10	Steel Complex	B	7.50
10	Steel Complex	M	8.90
10	Steel Fastners	C	1.50
3½	Steel Products	C	1.00
10	Steelocrete Consul.	Bg.	10.00
10	Sterling Steel	D	9.00
10	Stewarts & Lloyds	C	17.62
10	Stone Platt Elec.	C	13.50
10	Stormac	A	40.00
10	Stormac	B	41.00
10	Stovec Screens	A	41.00
10	Stovec Screens	B	41.00
100	Straw Board	D	110.00
10	Straw Products	B	53.00
10	Straw Products	C	50.90
10	Straw Products	D	52.00
10	Stretch Fibres	B	12.25
10	Subarna Plantation	C	2.00
10	Subhsree Petrochem.	C	2.06
10	Sudarshan Alu.	A	13.50
10	Sudarshan Alu.	B	14.50
10	Sudarshan Chem.	B	14.00
10	Sudarshan Chem.	D	13.37
10	Suessen Text. Bearings	A	52.00
10	Suessen Text. Bearings	B	52.00
10	Sujata Investment	C	2.94
50	Sukh Sandesh	C	2.05
10	Sukhjit Starch	D	12.87
5	Sulfur India	B	4.00
10	Sumangala Inv.	C	4.75
10	Sun Paper	M	10.00
10	Sunayana Invest.	C	2.12
10	Sundaram Abex	M	15.25
10	Sundaram Finance	Bg.	19.00
10	Sundaram Finance	M	27.00
10	Sungma Tea	C	8.12

7. Refer footnote No. 1 on page 170.

EQUITY SHARES QUOTATIONS AS ON 1-4-1981 IN RELATION TO ASSESSMENT YEAR 1993-94 AND ONWARDS[8] — *(Contd.)*

Paid up per Share Rs.	Name	Ex.	Rate as on 1-4-81 Rs. P.
10	Sunil Synchem.	D	16.00
10	Suniyojit Udyog	C	1.75
10	Sunrise Auto	Bg.	2.50
10	Sunrise Invest.	B	3.80
10	Suparswa Invest.	C	2.05
10	Super Com. Inv.	C	2.50
100	Super Spinning	Bg.	375.00
100	Super Spinning	H	100.00
100	Super Spinning	M	372.00
10	Superior Air	D	6.25
10	Supreme Cr. Corpn.	C	4.87
100	Supreme Industries	A	575.00
100	Supreme Industries	B	575.00
10	Supreme Rubber	Bg.	10.00
100	Surat Electricity	B	93.00
100	Surat Textile	A	51.25
10	Suri & Nayar	B	22.50
10	Suri & Nayar	Bg.	22.00
10	Suryalaxmi Mills	H	4.00
10	Suryodaya Invest.	B	6.30
10	Susma Trad. & Invest.	C	4.87
10	Sutlej Cotton	C	20.81
10	Sutlej Cotton	D	21.75
10	Sutna Stone Lime	C	5.25
100	Svadeshi Mills	B	187.00
10	Svaraj Trading	B	5.25
100	Swadeshi Commercial	C	67.00
10	Swadeshi Cotton	C	3.50
10	Swadeshi Cotton	D	3.50
10	Swadeshi Cotton (K)	B	12.00
10	Swadeshi Cotton P.O.	C	2.00
10	Swadeshi Cotton P.O.	D	2.00
10	Swadeshi Polytex	A	16.50
10	Swadeshi Polytex	B	17.00
10	Swadeshi Polytex	Bg.	17.25
10	Swadeshi Polytex	C	16.75
10	Swadeshi Polytex	D	17.75
10	Swadeshi Polytex	M	17.00
10	Swadeshi Polytex	Mp.	17.00
100	Swamiji Textile	M	100.00
100	Swan Mills	B	245.00
100	Swan Mills	C	228.00
10	Swarup Veg. Prod.	D	6.56
10	Swastik Rubber	B	4.76
10	Swastik Safe	B	5.15
100	Swastik Textile	B	105.00
10	Sweta Industrial Inv.	C	5.06
10	Sylvania & Laxman	B	17.50
10	Sylvania & Laxman	D	16.75
10	Symbiox Invest.	C	1.50
100	Synthetics & Chemicals	B	99.00
10	**T.** K. Chem.	B	4.00
10	T. N. Chem.	B	15.85
10	T. R. & Tea	M	21.25
10	T. Stanes	M	14.00
10	TEXMACO	B	73.50
10	TEXMACO	C	75.00
10	TEXMACO	D	73.75
100	Tak Machinery	A	93.00
100	Tak Machinery	B	107.50
2	Talayar Tea	M	5.00
10	Talbros Automotive	B	23.50
10	Talbros Automotive	D	22.25
100	Tamilnadu Card	M	100.00
10	Tamilnadu Chromates	M	20.00
100	Tan India Wattle	M	105.00
10	Taranagar Inv.	C	4.25
100	Tarun Commercial Mills	A	107.00
10	Tata Chemicals	A	44.75
10	Tata Chemicals	B	47.75
100	Tata Eng. & Loco.	A	440.00
100	Tata Eng. & Loco.	B	471.00
100	Tata Eng. & Loco.	Bg.	476.00
100	Tata Eng. & Loco.	C	308.00
100	Tata Eng. & Loco.	D	431.00
100	Tata Eng. & Loco.	M	472.00
10	Tata Finlay	B	16.00
10	Tata Finlay	C	15.00
100	Tata Hydro-Elec.	B	107.00
100	Tata Iron & Steel	A	141.80
100	Tata Iron & Steel	B	143.25
100	Tata Iron & Steel	C	136.00
25	Tata Oil Mills	B	78.50
100	Tata Power	B	109.00
10	Tata Robins Fraser	B	25.00
10	Tata Robins Fraser	C	26.00
25	Tata Textiles	B	25.00
100	Tata Yodogawa	B	152.50
10	Tea Estates	M	30.75
10	Tecalemit (Hind)	C	7.19
10	Technical Associates	C	4.31
10	Teekoy Rubber	M	23.00
10	Teesta Valley Tea	C	11.25
10	Telangana Spg.	H	7.00
10	Telangana Spg.	M	5.00
10	Telesound	D	1.50
10	Teloijan Tea	C	7.12
10	Tengpani Tea	C	22.00
100	Tensile Steel	A	50.00
100	Tensile Steel	B	50.00
10	Terpene Ind.	B	11.75
10	Terpene Ind.	D	11.00
100	Testeels Ltd.	A	392.50
100	Textool	M	157.00
10	Tezpore Tea	C	13.25
50	Thacker & Co.	B	45.00
10	Thamarpally Rubber	Bg.	13.50
10	Thamarpally Rubber	M	21.00
50	Thana Electric	B	35.00
10	Thanjavur Textile	M	24.50
10	Thirani Chem.	D	10.12
10	Thirumalai Chem.	B	24.50
10	Thirumalai Chem.	M	25.00
1	Thirumbadi Rubber	M	2.75
10	Tide Water Oil	C	26.75
10	Tiffin's Barytes	M	9.35
10	Tiger Locks	D	3.62
10	Tinnevelly Tuti. Tea.	M	14.50
10	Tinplate Co.	B	8.25
10	Tinplate Co.	C	8.75
10	Tinsukia Dev. Corpn.	C	5.62
10	Tirrihannah Tea	C	36.00
100	Tirumurti Textile	M	40.00
10	Tirupati Invest.	C	2.44
£1	Titaghur Jute	C	6.50
10	Titaghur Paper	B	8.00
10	Titaghur Paper 'A'	C	7.81
100	Tiwac Industries	Bg.	30.00
10	Toshiba Anand Batteries	B	30.50
10	Toshiba Anand Batteries	D	22.50
10	Toshiba Anand Batteries	M	34.50
10	Toshiba Anand Lamp	D	10.00
10	Toshiba Anand Lamp	M	12.40
10	Toyo Invest.	C	4.50
10	Trackparts of India	D	10.00
10	Tractors (India)	B	39.00
10	Tractors (India)	C	31.25
10	Trade Wings	B	7.00
10	Trans & Elect.	M	10.00
10	Transasia Carpets	B	11.75
10	Transasia Carpets	D	11.50
10	Transformers & Switch	M	6.00
10	Transpek Ind.	A	21.50
10	Transpek Ind.	B	16.00
10	Transport Corpn.	A	26.00
10	Transport Corpn.	B	26.00
10	Transport Corpn.	Bg.	24.50
10	Transport Corpn.	C	25.00
10	Transport Corpn.	H	45.00
10	Travancore Cement	M	14.05
10	Travancore Chemical Mfg.	M	14.25
100	Travancore Electro-Chem.	B	222.50
100	Travancore Electro-Chem.	M	116.50
10	Travancore Ogale	M	3.75
10	Travancore Rayons	B	5.85
10	Travancore Rayons	M	7.70
10	Travancore Rubber	M	27.50
10	Travancore Sugar	M	4.00
10	Tri-Sure India	B	11.50
10	Tribeni Tissues	C	23.15
10	Trichinopoly Text.	M	13.75
100	Trichy Distilleries	M	101.50
10	Trichy Steel Rolling	M	14.50
10	Triton Valves	Bg.	10.00
10	Triveni Engineering	B	11.50
10	Triveni Engineering	D	13.75
10	Triveni Sheet Glass	B	13.50
10	Triveni Sheet Glass	C	12.00
25	Tropical Rubber	M	35.00
10	Tube Investment	B	20.00
10	Tube Investment	Bg.	19.50
10	Tube Investment	M	19.10
10	Tube Suppliers	M	10.00
10	Tubes & Malleables	M	8.75
10	Tulsian Invest.	C	5.25
5	Tulsipur Sugar	C	2.45
10	Tungabhadra Ind.	B	14.00
10	Tungabhadra Ind.	C	13.75
10	Tungabhadra Ind.	H	13.50
10	Tuticorin Spg.	M	9.06
10	Twyford Tea	B	4.52
10	Twyford Tea	M	8.75
10	Tyroon Tea	C	20.25
10	**U.** I. Bearings	B	13.50
10	U. P. Asbestos	D	8.12
10	U. P. Twiga Fibre Glass	D	7.00
10	Udayagiri Tea	M	12.25
100	Ugar Sugar Works	B	105.00
100	Ugar Sugar Works	Bg.	150.00
100	Ultra Marine & Pigments	B	415.00
10	Uma Properties	C	10.25
10	Umang Industries	C	2.06
10	Uni Loids	H	10.00
10	Uni-Abex	B	11.75
10	Uni-Abex	D	12.00
100	Unichem Lab.	B	131.00
10	Union Carbide	C	28.70
100	Union Company	C	72.50
10	Union Home Prod.	Bg.	10.00
100	Union Jute	C	22.00
10	Unique Invest.	C	3.00
10	United Breweries	Bg.	35.00
10	United Breweries	M	34.50
100	United Carbon	B	257.50
10	United Collieries	C	6.50
10	United Electrical	M	7.82
10	United Flour	C	9.62
5	United India Credit	C	3.50
20	United Motors	B	17.50
10	United Nilgiri Tea	M	15.65
10	United Prov. Sugar	C	4.37
100	United Wire Ropes	B	39.00
10	Universal Cables	B	64.00
10	Universal Cables	C	67.50
10	Universal Cans	B	72.50
10	Universal Conv.	B	4.00
25	Universal Dyestuff	A	35.00
25	Universal Dyestuff	B	35.00
10	Universal Electric	C	28.25
10	Universal Glass	D	4.37
10	Universal Ind.	C	9.56
10	Universal Inv. Trust	D	4.00
10	Universal Paper	C	8.62
10	Universal Petrochem.	C	7.00
10	Universal Plast	C	1.25
10	Universal Steel	D	23.25
10	Universal Tyres	C	4.75
10	Universal Tyres	D	16.00
10	Universal Wires	C	10.30
10	Universal Wires	H	3.50
100	Upper Doab Sugar	B	65.00
100	Upper Doab Sugar	D	43.75
10	Upper Ganges Sugar	C	36.00
10	Upper India	M	5.00
50	Upper India Couper	C	20.00
10	Urvi Invest.	A	5.15
10	Urvi Invest.	B	5.20
10	Usha Alloys & Steel	B	35.00
10	Usha Alloys & Steel	C	36.25
10	Usha Alloys & Steel	D	34.00
10	Usha Atlas Hydraulic	C	10.50
10	Usha Forgings	D	0.75
10	Usha Martin Black	B	19.00
10	Usha Martin Black	C	30.00
10	Usha Oil Udyog	B	11.50
10	Usha Oil Udyog	C	13.25
10	Usha Spg. Mills	B	2.90
10	Usha Spg. Mills	D	4.00
10	Usha Telehoist	C	35.62
10	Uttar Pradesh Hotels	B	2.50
10	Uttar Pradesh Hotels	C	3.50
10	Uttar Pradesh Hotels	D	4.69
100	**V.**S.T. Tillers Tractor	Bg.	26.00
100	V.S.T. Tillers Tractor	M	35.00
10	Vaikundam Rubber	M	37.50
10	Vaishali Bleach	A	6.00
5	Vankatesa Invest.	D	6.00
10	Vardhan Ltd.	C	10.00
10	Vardhman Spg.	B	52.25
10	Vardhman Spg.	D	48.00
10	Varistha Udyog	D	10.00
10	Vasanta Textile	M	5.70
2	Vayitri Tea	M	2.64
10	Vazir Sultan Tobacco	B	16.00
10	Vazir Sultan Tobacco	C	16.62
10	Vazir Sultan Tobacco	D	16.50
10	Vazir Sultan Tobacco	H	15.75
10	Veecee Cementolites	C	4.00
10	Veegal Engines	C	2.44
5	Velimalai Rubber	M	12.25
10	Vellore Electric	M	4.00
10	Veneers & Laminates	B	11.00
10	Veneers & Laminates	M	30.05
10	Venkatesa Textile	M	20.00
10	Venus Paper	B	21.50
10	Venus Paper	D	17.50
10	Vickers Sperry	B	22.00
10	Vicky Invest.	C	3.03
10	Vicon Limited	Bg.	10.50
100	Victoria Mills	B	400.00
10	Vidarbha Iron	B	9.25
10	Vidarbha Paper	B	15.00
10	Vidharbha Organic	B	4.50
10	Vidyut Steel	H	10.00
100	Vijaeshwari Text.	M	136.00
10	Vijay Spg. Mills	H	10.00
10	Vijay Spg. Mills	M	6.60
250	Vijay Textile	A	290.00
100	Vijayakumar Text.	M	180.00
100	Vijayalakshmi Text.	M	41.67
10	Vijayawada Bottling	H	10.00
10	Vikram Investment	C	4.90
10	Vikram Investment	D	7.90
10	Vikrant Tyres	B	8.00
10	Vikrant Tyres	Bg.	7.25
10	Vikrant Tyres	D	8.25
10	Vinit Traders & Inv.	C	3.06
5	Vinod Invest.	D	4.50
50	Virudhunagar Text.	M	70.00
10	Vishal Malleables	B	4.76
100	Vishnu Sugar	B	79.00
10	Vitroc Electronics	C	6.50
10	Vitroc Electronics	D	7.12
250	Vivekananda Mills	A	515.00
100	Voltas Limited	B	284.00
10	Vulcan-Level	B	34.25
25	Vyasa Bank	Bg.	42.00
50	Vysya Bank	Bg.	83.00
10	W. G. Forge	B	10.00
150	W. H. Brady	B	40.00
10	W. H. Harton Co.	D	11.25
10	W. S. Insulators	B	40.25
10	W. S. Insulators	M	36.00
100	Walchandnagar Ind.	B	150.00
1	Walford Trans. (Eastern)	C	0.60
1	Walford Transport	C	0.15
100	Wandleside-National	B	60.00
10	Warner Hindustan	B	24.75
10	Warner Hindustan	H	29.00
10	Warren Tea	B	19.50
10	Warren Tea	C	20.50
2	Wartyhully Coffee	Bg.	3.65
2	Wartyhully Coffee	M	5.25
1	Waverley Inv.	C	3.45
10	Wavin (India)	M	11.17
10	Ways Enterprise	C	2.12
10	Welcast Steels	B	24.50
10	Welcast Steels	Bg.	25.00
10	Wellman Incandescent	C	13.12
10	Wesco Engineers	M	1.00
100	West Coast Paper	B	107.50
100	West Coast Paper	Bg.	110.00
100	West Coast Paper	C	110.50
10	Western Bengal Coal	C	10.44
100	Western India Comm.	C	77.00
10	Western India Erectors	B	88.00
10	Western India Glass	B	3.00
10	Western India Ind.	Bg.	5.00
100	Western India Ply.	B	133.50
100	Western India Ply.	Bg.	140.06
100	Western India Ply.	M	145.00
10	Western Ministeel	B	28.00
10	Western U.P. Elec.	D	1.06
100	Wheelabrator	B	20.00
10	Wheels India	Bg.	17.60
10	Wheels India	M	24.25
10	Whitco	A	8.75
10	Whitco	B	8.75
100	Widia (India)	B	480.00
100	Widia (India)	Bg.	452.00
100	Widia (India)	M	415.00
10	Willard (India)	B	12.75
10	Willard (India)	D	11.37
10	Wimco	B	16.25
10	Wimco	C	15.56
10	Wimco	D	15.87
10	Wimsome Int.	C	2.06
10	Window Glass	C	25.37
100	Wipro Foods	B	162.50
100	Wood Paper	A	240.00
10	Wood Polymer	A	28.50
10	Wood Polymer	B	28.50
10	Woodland	M	6.00
10	Woolcombers of India	B	13.00
10	Woolcombers of India	C	12.62
10	Woolcombers of India	D	16.62
10	**Y**amuna Gases	D	12.00
50	Yamuna Syndicate	D	80.00
10	Yasman Deepak	C	2.87
100	Yemmiganur Spg.	H	60.00
100	**Z**andu Pharmaceuticals	B	102.00
100	Zell-Ate	B	255.00
10	Zenith Steel Pipes	B	42.00
10	Zephyr Invest.	C	3.31
10	Zuari-Agro	B	30.00
10	Zuari-Agro	C	30.25
10	Zuari-Agro	D	31.00
10	Zuari-Agro	M	25.75

8. Refer footnote No. 1 on page 170.

1. INCOME FROM OTHER SOURCES
[From assessment year 2001-02 and onwards]

Section 56(1) of the Income-tax Act lays down that income of every kind which is not to be excluded from the total income and which is not chargeable under any of the heads specified in items A to E of section 14 shall be chargeable to income-tax under the residuary head "Income from other sources".

Income from "Interest on securities" will be assessed under this head, if it is not chargeable to tax under the head "Profits and gains of business or profession" [Vide section 56(2)(id)].

Section 56(2) enacts that in particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall be chargeable under the head "Income from other sources".

(i) Dividends
[Section 56(2)(i)]

A comprehensive definition of dividend is given in section 2(22). Dividend income arises from ownership of shares of companies. Shares may be held as investment or as stock-in-trade. Under section 8(a), dividend is deemed to be the income of the previous year in which it is declared, distributed or paid. The date of accrual of the dividend is therefore taken to be the date on which it is declared at the annual general meeting of the company. Under section 8(b), interim dividend shall be deemed to be the income of the year in which the amount of such dividend is unconditionally made available by the company to the shareholders.

IN RESPECT OF DIVIDENDS DECLARED, DISTRIBUTED OR PAID BY A DOMESTIC COMPANY (1) ON OR AFTER 1-6-1997 BUT ON OR BEFORE 31-3-2002, AND (2) ON OR AFTER 1-4-2003 :

Any income by way of dividends referred to in section 115-O which is declared, distributed or paid, by a domestic company: (1) on or after 1-6-1997 but on or before 31-3-2002, and (2) on or after 1-4-2003, is exempt u/s. 10(33) (upto assessment year 2002-03 and/ u/s. 10(34) (from assessment year 2004-05 and onwards) and not liable to tax in the case of all categories of assessees in relation to assessment years 1998-99 to 2002-03 and from assessment year 2004-05 and onwards. No tax is required to be deducted at source u/s. 194, 195, 196C & 196D by a domestic company in respect of dividends referred to in section 115-O. However, w.e.f. 1-6-1997, Chapter XII-D (sections 115-O to 115Q), provides, for levy of additional income-tax (i.e., tax on distributed profits) @12½%, from 1-4-2003 and onwards [@ 10%, from 1-6-2001 to 31-3-2002/@ 20%, from 1-6-2000 to 31-5-2001/@ 10%, from 1-6-1997 to 31-5-2000] on any amount declared, distributed or paid, by a domestic company, by way of dividends (whether interim or otherwise), whether out of current or accumulated profits [Section 115-O(1)]. Additional income-tax is to be increased by surcharge[1] on such additional income-tax, if any. Even in cases where no income-tax is payable by a domestic company on its total income, the tax on distributed profits u/s. 115-O(1) is payable by such a company.

IN RESPECT OF DIVIDENDS DECLARED, DISTRIBUTED OR PAID BY A DOMESTIC COMPANY ON OR AFTER 1-4-2002 BUT ON OR BEFORE 31-3-2003:

Any income by way of dividends declared, distributed or paid by a domestic company, on or after 1-4-2002 but on or before 31-3-2003, is liable to be included in the gross total income in the case of all categories of assessees in relation to assessment year 2003-04. Such dividend is not to be excluded u/s. 10(33) in view of omission of section 10(33) from the said assessment year.

Tax is required to be deducted at source u/s. 194, 195, 196C & 196D by a domestic company in respect of dividends so paid. For details, refer page 179 of ITRR 2003-04 (65th Year of Publication).

(ii) Winnings from lotteries, crossword puzzles, races, card games, etc.:
[Section 56(2)(ib)]

Winnings from lotteries[1a], crossword puzzles, card games and other games of any sort[1a] or from gambling or betting of any form or nature whatsoever is liable to be included in the total income in relation to assessment year 2003-04 and subsequent years[2] in view of omission of section 10(3) w.e.f. 1-4-2003. Such winnings will be taxed at the flat rate of income-tax @ 30%[3] u/s. 115BB. Winnings from lotteries or crossword puzzles or, w.e.f. 1-6-2001, card games and other games of any sort in excess of Rs. 5,000 is subject to deduction of tax at source u/s. 194B.

Winnings from races including horse races is liable to be included in the total income in relation to assessment year 2003-04 and subsequent years[4] in view of omission of section 10(3) w.e.f. 1-4-2003. Such winnings (not being income from the activity of owning and maintaining race horses) will be taxed at the flat rate of income-tax @ 30%[3] u/s. 115BB. Winnings from horse races in excess of Rs. 2,500 is subject to deduction of tax at source u/s. 194BB.

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1. For additional S.C. on I.T. & S.C., refer Note (2) on page 38.

1a. From assessment year 2002-03 and onwards, under *Explanation* to section 2(24)(ix) —

(a) "lottery" includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(b) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

2. Upto assessment year 2002-03, such winnings is exempt upto Rs. 5,000 u/s. 10(3). Such winnings will be taxed at the flat rate of income-tax @ 30%[3] [@ 40%[3], upto assessment year 2001-02] u/s. 115BB.

3. Income-tax at the flat rate of 30%/40% is to be increased by surcharge on income-tax, addl. S.C. on I.T. & S.C., if any.

4. Upto assessment year 2002-03, such winnings is exempt upto Rs. 2,500 under 1st proviso to section 10(3). Such winnings will be taxed at the flat rate of income-tax @ 30%[3] [@40%[3], upto assessment year 2001-02] u/s. 115BB.

No deduction in respect of any expenditure or allowance is allowable in computing the income by way of winnings from lotteries, races, etc. However, expenditure on maintaining horses for running in horse races will be allowed in computing the income of the owner of race horses [Section 58(4)].

(iii) Income from interest on securities:

[Section 56(2)(id)]

Income from "Interest on securities" will be chargeable under the head "Profits and gains of business or profession", if the securities are held as stock-in-trade. If they are held as investment, the interest therefrom will be chargeable under the head "Income from other sources".

Any reasonable sum by way of commission or collection charges for realising the income and interest on moneys borrowed for the purpose of investment in securities will be allowed as deduction [Section 57(i)]. Interest on securities has to be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. That is, if the system of accounting regularly employed is cash, then it is chargeable on cash basis and if it is mercantile, then it is chargeable on accrual basis [Section 145(1)].

LIABILITY TO DEDUCT TAX, ETC.:

(*a*) Section 193 provides that, the person responsible for paying any income by way of interest on securities, shall at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax at the rates in force which are specified in Part II of the First Schedule to the Finance Act. However, deduction of income-tax at source is not required to be made in respect of payment made, on or after 1-6-1997, on any income by way of interest payable on any security of Central or State Government [Vide substituted section 193 (iv)].

(*b*) A certificate of tax deduction in the prescribed Form No. 16A is to be issued by the person paying the interest on debentures or other securities to the owner thereof to enable him to claim credit for the tax deducted at source [Section 203/203(1)].

(*c*) Where any security is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit of tax deduction shall be given to, each such person in the same proportion in which the interest on such security is assessable as his income [2nd proviso to section 199(1)[5]].

RELAXATION IN DEDUCTION OF TAX AT SOURCE FROM INTEREST ON DEBENTURES UPTO SPECIFIED LIMIT:

Clause (v) of proviso to section 193 provides that no tax shall be deducted at source from interest on debentures subject to the following conditions:

(1) the interest is payable to an individual, who is resident in India;

(2) the interest is paid by a company in which the public are substantially interested and the debentures are listed on a recognised stock exchange in India;

(3) the interest is paid by the company by an account payee cheque drawn on a bank; and

(4) the aggregate of the amounts of such interest paid or likely to be paid during the financial year by the company to such individual does not exceed Rs. 2,500.

NO DEDUCTION OF TAX TO BE MADE IN CERTAIN CASES:

To avoid inconvenience and hardship to a large number of small investors whose tax on estimated income is 'nil', section 197A(1A) provides that income-tax shall not be deducted at source from interest on securities in the case of a person (not being a company or a firm) if he furnishes a declaration in writing in duplicate in the prescribed Form No. 15G [upto 8-6-2003, Form No. 15H] to the payer of such income to the effect that the tax on his estimated total income for the relevant year will be 'nil'. The person responsible for making payment is required to deliver one copy of such declaration to the Chief Commissioner or Commissioner on or before 7th day of the month next following the month in which the declaration is furnished to him. W.e.f. 1-6-2002, provisions of section 197A(1A) shall not apply where the amount of any income of the nature referred to in section 197(1)/197(1A) or the aggregate of amounts of such income credited or paid by a payer during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax [Section 197(1B)]. However, w.e.f. 1-6-2003, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of 65 years or more at any time during the previous year and is entitled to a rebate of (deduction from) income-tax u/s. 88B, if such individual furnishes a declaration in duplicate in the prescribed Form No. 15H and verified in the prescribed manner to the effect that tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be 'nil' [Section 197(1C)].

5. Credit for tax deducted at source is also to be given to each person in cases of income derived from jointly owned property (rent)/deposits (interest)/units (income from units) in the same proportion in which rent/interest/income from units is assessable as his income [2nd proviso to section 199(1)].

(iv) Income from machinery, plant or furniture let on hire:

[Section 56(2)(ii) & 56(2)(iii)]

Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings and the letting of buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession", shall be chargeable under the head "Income from other sources".

(v) Other receipts falling under the head "Income from other sources":

(*a*) Interest on bank deposits and loans (not being interest arising out of money lending business), interest received on excess payment of advance tax under sections 214/244A or on delayed refund under sections 243/244/244A or under the various provisions of the Income-tax and other taxation acts.

It may be noted that, income-tax is required to be deducted at source, by a person other than an individual/HUF, on payment/credit of income by way of interest exceeding Rs. 5,000[6] (as against Rs. 2,500, upto 31-5-2000) during the financial year [Section 194A]. However, w.e.f. 1-6-2002, proviso to section 194A(1), provides that income-tax is required to be deducted at source by an individual or a HUF also, whose total sales, turnover or gross receipts from the business or profession carried on by him exceed the monetary limits specified in section 44AB(a)/(b) during the financial year immediately preceding the financial year in which such interest is credited or paid.

(*b*) Director's fees from a company, director's commission for standing as a guarantor to bankers for allowing overdraft to the company and director's commission for underwriting shares of a new company.

(*c*) Income from ground rents.

(*d*) Income from royalties in general.

(*e*) Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the Employees' State Insurance Act or any other fund for the welfare of such employees, if such sum is not taxable under the head "Profits and gains of business or profession" [Section 56(2)(ic)].

(*f*) Any sum received, on or after 1-10-1996, under a 'Keyman insurance policy' including the sum allocated by way of bonus on such policy is an income u/s. 2(24)(xi). If such income is not chargeable to tax either under the head "Profits and gains of business or profession" or "Salaries", the same will be charged to tax under the head "Income from other sources" [Section 56(2)(iv)[6a]].

(*g*) For assessment years 2000-01 to 2002-03 and from assessment year 2004-05 and onwards, income in respect of units: (1) of a Mutual Fund specified in section 10(23D); (2) of Unit Trust of India/from the Administrator of the specified undertaking or specified company (in relation to assessment year 2004-05 and onwards) is exempt u/s. 10(33) (in relation to assessment years 2000-01 to 2002-03)/ u/s.10(35) (in relation to assessment year 2004-05 and subsequent years). However, any income arising on transfer (sale) of the said units will not be exempt under said sections. The income exempt u/s. 10(33)/u/s. 10(35) is not liable to tax in the case of all categories of assessees. It may be noted that provisions of section 10(35) will also apply to existing units issued by the Unit Trust of India [Vide section 18 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002]. Consequently, payer of such income is also not required to deduct tax at source u/s. 194K/196A. However, Chapter XII-E (Sections 115R to 115T), w.e.f. 1-6-1999, provides for levy of additional income-tax (i.e., tax on such distributed income) @12½%, from 1-4-2003 and onwards [@10%, from 1-6-2001 to 31-3-2002/@ 20%, from 1-6-2000 to 31-5-2001/ @ 10%, from 1-6-1999 to 31-5-2000] (*plus* S.C. on such additional income-tax, if any) of income distributed subject to exceptions specified in section 115R [Section 115R(1) & (2)[6b]].

For assessment year 2003-04, income in respect of units of Unit Trust of India (UTI)/Mutual Fund (MF) [referred to in section 10(23D)] is includible in the gross total income of the unit holders as section 10(33) is omitted w.e.f. 1-4-2003. However, in the case of individual/HUF, such income qualifies for deduction from gross total income upto a maximum amount of Rs. 12,000 u/s. 80L and the balance amount, if any, is to be included in the total (taxable) income and tax is payable thereon. Payer of such income is also required to deduct tax at source at the rate and conditions prescribed in sections 194K & 196A. It may be noted that income-tax on income from units of an open-ended equity oriented fund of UTI/ MF (as defined in section 115T), arising during the financial year ending on 31-3-2003, is at the flat rate of 10% and income-tax on other incomes as reduced by the income from such units will be computed as per applicable rates. The aggregate of the two will be the income-tax payable by the assessee [Section 115BBB]. This aggregate of income-tax is to be increased by a surcharge @ 5% on such income-tax.

(vi) Deductions to be made from "Income from other sources":

(Section 57)

The following deductions are allowed for computing income under the head "Income from other sources":

(1) In respect of income from machinery, plant or furniture, etc. belonging to the assessee and let on hire, the deductions permissible u/s. 57(ii) are –

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6. Income-tax is also required to be deducted at source on payment/credit of income by way of interest on time deposits (i.e., fixed deposits other than recurring deposits) with banking company/co-operative bank, etc. referred to in proviso to section 194A(3)(i) [for details, refer†† marked foot note on page 343], exceeding Rs. 5,000 [as against Rs. 10,000, upto 31-5-2001] during the financial year.

6a. For the notes on clause (v) inserted in section 56(2) and sub-clause (xiii) inserted in section 2(24) by the Finance (No. 2) Act, 2004, refer para 1.1 on page 41.

6b. For the notes on amendment of section 115R(2) by the Finance (No. 2) Act, 2004, refer Note (3) on page 38.

(*a*) amount paid on account of current repairs to the premises [Section 30(a)(ii)];

(*b*) amount paid on account of current repairs to machinery, plant or furniture and premium paid in respect of insurance against risk of damage or destruction thereof (Section 31);

(*c*) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises [Section 30(c)];

(*d*) depreciation in respect of building, machinery, plant or furniture [Section 32(1) and 32(1A)];

(*e*) benefit of unabsorbed depreciation [Section 32(2)].

(2) In respect of income in the nature of family pension[7], a deduction of a sum equal to $33^1/_3$% of such income subject to ceiling limit of Rs. 15,000 [Section 57(iia)].

(3) In respect of contributions received for provident fund, etc. [Refer item (v)(e) on page 180], the deduction of the same will be allowed only if such sum is credited by the assessee to the employee's account in relevant fund on or before the due date, i.e., the date by which the assessee is required as an employer to credit such contribution to the employee's account under the provisions of any law or term of contract or otherwise [Section 57(ia)].

(4) Any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly or exclusively for the purposes of making or earning such income [Section 57(iii)].

(vii) Method of accounting in respect of "Income from other sources":

[Section 145]

Section 145 provides that, income chargeable under the head 'Profits and gains of business or profession' or 'Income from other sources' has to be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee [mixed or hybrid method which has both the aforesaid methods of accounting will not be permissible from uniform accounting year commencing on 1-4-1996 and subsequent years]. The Central Government may notify[8] from time to time accounting standards to be followed by any class of assessee or in respect of any class of income. Where the Assessing Officer (AO) is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting is different from cash or mercantile system or where the notified accounting standards, have not been regularly followed by the assessee, the AO may make a best judgment assessment u/s. 144.

(viii) Unexplained cash credits:

(Section 68)

Where any sum is found credited in the books of the assessee for any previous year and no satisfactory explanation is offered to the Assessing Officer about the nature and source thereof, it is liable to be assessed as the income of that previous year.

(ix) Unrecorded investments:

(Section 69)

If in any financial year preceding the assessment year, an assessee has made investments which are not recorded in the books of account, the value of such investments may be deemed to be the income of the assessee for such financial year if no satisfactory explanation is offered to the Assessing Officer about the nature and source of such investments. Even in cases where the assessee has maintained books of account for a different previous year (other than financial year) such amount is taxable as income of the said financial year.

(x) Unrecorded money, bullion, jewellery, etc.:

(Section 69A)

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no satisfactory explanation to the Assessing Officer about the nature and source of acquisition, the money and the value of such bullion, jewellery or other valuable article may be deemed to be the income of the assessee of that financial year.

(xi) Unexplained investments:

(Section 69B)

Where in any financial year the assessee has made investment or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in the books of account maintained by the assessee, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

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7. Where an assessee is in receipt of such pension, being paid in arrears, due to which his total income is assessed at a rate higher than that at which it would otherwise have been assessed, he shall be entitled to relief u/s. 89 [For details, refer page 74].

8. The Central Government has notified the "Accounting standards to be followed by all assessees following mercantile system of accounting" [Vide Notification No. 69(E), dt. 25-1-1996]. For the text of the said notification, refer page 132 of ITRR 1998-99 (60th Year of Publication).

(xii) Unexplained expenditure:

(Section 69C)

Where an assessee has incurred any expenditure in any financial year and he is unable to offer any satisfactory explanation in respect of the source of such expenditure or part thereof, such unexplained expenditure or part thereof, may be deemed to be the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income [Proviso to section 69C].

(xiii) Hundi loans and interest thereon obtained or repaid otherwise than through an account payee cheque:

(Section 69D)

A hundi loan obtained or repaid (including interest on such borrowing) otherwise than through an account payee cheque drawn on a bank shall be deemed to be the income of the borrower for the previous year in which the amount was borrowed or repaid. This section is not applicable to certain types of Darshani hundi transactions [Vide Circular No. 221, dated 6-6-1977: 108 ITR (St.) 10].

2. MODE OF TAKING OR ACCEPTING CERTAIN LOANS OR DEPOSITS

[Sections 269SS, 269T, 271D & 271E]

Section 269SS of the Income-tax Act provides that no person shall take or accept any loan or deposit from any other person (referred to as the depositor) except by an account payee cheque or by an account payee bank draft, in the following cases:

(i) where the amount of such loan or deposit or the aggregate amount of such loan or deposit taken or accepted from the depositor is Rs. 20,000 or more;

(ii) where on the date of taking or accepting such loan or deposit, any earlier loan or deposit taken or accepted from the depositor and remaining unpaid on the date is Rs. 20,000 or more;

(iii) where the amount of such loan or deposit taken together with the aggregate amount remaining unpaid on the date on which such loan or deposit is proposed to be taken or accepted is Rs. 20,000 or more.

The above provision will, however, not apply to any loan or deposit taken or accepted from, or any loan or deposit taken or accepted by:

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

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

(d) any Government company as defined in section 617 of the Companies Act, 1956;

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may notify in this behalf in the Official Gazette;

(f) lender or borrower, in a case where the lender and borrower have agricultural income and neither of them has any income chargeable to tax under the Income-tax Act.

For non-compliance with the provisions of section 269SS, penalty equal to the amount of the loan or deposit taken is leviable u/s. 271D.

Repayment of loan (w.e.f. 1-6-2002) or deposit[9] together with or without interest or interest alone[10] exceeding Rs. 20,000 are to be made by an account payee cheque or by an account payee bank draft [Section 269T]. This provision will be applicable to all persons such as individual, HUF, AOP, company, co-operative society, firm, etc. W.e.f. 1-6-2002, provision of section 269T will not apply to repayment of any loan or deposit taken or accepted from persons referred to in (a) to (e) above [2nd proviso to section 269T]. For non-compliance with the provisions of section 269T, a penalty equal to the amount of loan (w.e.f. 1-6-2003)/ deposit repaid will be levied u/s. 271E.

3. PERMANENT ACCOUNT NUMBER

[Section 139A]

Section 139A relates to allotment of permanent account number (PAN). The salient provisions of section 139A are as under:

(a) Every person, if his total income or the total income of any other person in respect of which he is assessable during any previous year exceeds the maximum amount which is not chargeable to tax, or, any person carrying on business or profession whose total sales, turnover or gross receipts are or is likely to exceed Rs. 5,00,000 in any previous year, are required to apply for and obtain PAN within the prescribed[10a] time limit.

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9. Where a "Kachcha Arhatiya" sells goods belonging to agriculturist, the sale proceeds thereof which remain with him cannot be regarded as a deposit made by the agriculturist with the "Kachcha Arhatiya" [Circular No. 556, dt. 23-2-1990: 183 ITR (St.) 92].

10. The payment of interest of Rs. 20,000 or more, will have to be made in the manner provided in section 269T [Circular No. 479, dated 16-1-1987: 164 ITR (St.) 154].

10a. The prescribed time limit for an application for new PAN in relation to assessment year 1999-2000 and subsequent years is on or before 30th day of June [Vide Notification No. 543(E), dt. 30-6-98: 232 ITR (St.) 16].

(b) Every person who is required to furnish a return of income u/s. 139(4A) is also required to apply for and obtain PAN within the prescribed[11] time limit. W.e.f. 1-6-2000, notified class or classes of persons[12] by whom tax is payable under the Income-tax Act or any tax or duty is payable under any other law including importers and exporters whether any tax is payable by them or not, is required to apply to the Assessing Officer for allotment of PAN within the prescribed time limit[12] [Section 139A (1A)].

(c) The Assessing Officer (AO) may also allot PAN to any other person by whom tax is payable.

(d) Any other person not covered by (a) to (c) above, may also apply to the AO for allotment of PAN and the AO shall allot PAN to such applicant.

(e) All taxpayers who have been allotted old PAN or GIR No. are also required to apply for and obtain PAN within the prescribed[11] time limit.

(f) For allotting PAN under the new series, the Board may notify places, classes of persons who should apply to the AO for new PAN, and the time limit for making such application[11]. On allotment of new PAN, the earlier PAN will cease to have effect. The persons to whom PAN under new series has already been allotted need not apply therefor.

(g) Every person should quote the PAN or GIR No. in returns, correspondence with the income-tax department, challans of tax payments and in other transaction as prescribed in Rule 114B[13].

(h) Every person should intimate to the AO any change of address or in the name and nature of his business on the basis of which the PAN was allotted to him.

(i) W.e.f. 1-6-2001, every person from whose income, tax has been deducted under Chapter XVII-B, shall intimate his PAN to the person responsible for deducting such tax under that Chapter. In case PAN has not been allotted, the said person shall intimate his GIR No. till the PAN is allotted [Section 139A(5A)]. The provisions of section 139A(5A) will not apply to a non-resident referred to in sections 115AC(4) or 115BBA(2) or to a non-resident Indian referred to in section 115G [1st proviso to section 139A(5A)[13a]].

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11. The prescribed time limit for an application for new PAN in relation to assessment year 1999-2000 and subsequent years is on or before 30th day of June [Vide Notification No. 543(E), dt. 30-6-98: 232 ITR (St.) 16].

12. As per Notification No. 775(E), dt. 29-8-2000 [245 ITR (St.) 20], specified class or classes of persons are: **(a)** exporters and importers; **(b)** assessees defined in rule 2(3) of the Central Excise Rules, 1944; **(c)** persons issuing invoices u/r. 57EA requiring registration under the Central Excise Rules, 1944; and **(d)** assessees as defined in section 65(6) of the Finance Act, 1994 relating to service tax. As on date of notification (i.e., 29-8-2000), a person falling within a class or classes of persons referred to in (a) to (d) has to apply for PAN within 15 days of 29-8-2000. A person who may fall within such class or classes of persons, after the date of the notification (i.e., after 29-8-2000), as is: (1) referred to in (a), has to apply for PAN before making any export/import; (2) referred to in (b) & (c), has to apply for PAN, before making an application for registration under the Central Excise Rules, 1944; and (3) referred to in (d), has to apply for PAN before making an application for registration under the Service Tax Rules, 1994. Application for PAN shall be in Form No. 49A.

As per Notification No. S.O. 1206 (E), dt. 12-12-2001 [254 ITR(St.) 280] specified class or classes of persons are persons registered under the Central Sales Tax Act, 1956 or the general sales tax law of the appropriate State or Union Territory. As on the date of Notification (i.e., 12-12-2001), a person falling within such a class or classes of persons has to apply for PAN in Form No. 49A within 30 days of 12-12-2001. A person falling within such class or classes of persons after the date of the notification (i.e., after 12-12-2001), has to apply for PAN in Form No. 49A before making any application for registration under the Central Sales Tax Act, 1956 or general sales tax law of the appropriate State or Union Territory.

13. All documents pertaining to the transactions in relation to which PAN or GIR No. to be quoted specified under Rule 114B are–

(a) sale or purchase of any immovable property valued at Rs. 5,00,000 or more;

(b) sale or purchase of a motor vehicle or vehicles, as defined in section 2(28) of the Motor Vehicles Act, 1998, which requires registration by a registrating authority under Chapter IV of that Act. For this purpose sale and purchase of a motor vehicle or vehicle does not include two wheeled vehicles, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;

(c) a time deposit, exceeding Rs. 50,000, with a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act). Where an applicant is a minor and who does not have any income chargeable to income-tax, he shall quote PAN or GIR No. of his father/mother/guardian;

(d) a deposit, exceeding Rs. 50,000, in any account with Post Office Savings Bank;

(e) a contract of a value exceeding Rs. 1,00,000 [Rs. 10,00,000, upto 18-6-2002] for sale or purchase of securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956;

(f) opening an account not being a time-deposit account referred to in (c) with a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act). Where an applicant is a minor and who does not have any income chargeable to income-tax, he shall quote PAN or GIR No. of his father/mother/guardian;

(g) making an application for installation of a telephone connection (including a cellular telephone connection);

(h) payment to hotels and restaurants against their bills for an amount exceeding Rs. 25,000 at any one time;

(i) w.e.f. 19-6-2002, payment in cash for purchase of bank drafts or pay orders or banker's cheques from a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) for an amount aggregating Rs. 50,000 or more during any one day;

(j) w.e.f. 19-6-2002, deposit in cash aggregating Rs. 50,000 or more, with a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) during any one day;

(k) w.e.f. 19-6-2002, payment in cash, exceeding Rs. 25,000 at any one time, in connection with travel (inclusive of payment in cash towards fare, or to a travel agent or a tour operator, or for purchase of foreign currency) to any foreign country other than travel to the neighbouring countries or to places of pilgrimage specified by the Board under *Explanation 3* of section 139(1).

A person shall quote GIR No. in the documents pertaining to above transactions till such time the PAN is allotted to him.

Any person who has not been allotted PAN or who does not have GIR No. and who makes payment in cash/crossed cheque/credit card issued by any bank in respect of any of above transaction, shall make a declaration in Form No. 60 giving therein the particulars of such transaction.

13a. For notes on omission of 1st proviso to section 139A(5A) by the Finance (No. 2) Act, 2004, refer para 10.2 on page 339.

(j) W.e.f. 1-6-2001, where any sum or income or amount has been paid after deducting tax under Chapter XVII-B, every person deducting tax under that Chapter shall quote PAN of the person to whom such sum or income or amount has been paid by him: (1) in the statement furnished u/s.192(2C); (2) in all certificates furnished u/s. 203; & (3) in all returns u/s. 206. The Central Government may notify different dates from which the provision of section 139A(5B) shall apply in respect of any class or classes of persons[14] [Section 139A(5B)].

(k) Provisions of section 139A(5A)/(5B) [i.e., (i) & (j) above] shall not apply to a person whose total income is below taxable limit or who is not required to obtain PAN if such person furnishes a declaration referred to in section 197A in the prescribed form and manner [2nd proviso to section 139A(5B)].

(l) W.e.f. 1-6-2001, every buyer referred to in section 206C shall intimate his PAN to the seller referred to in that section [Section 139A(5C)[14a]].

(m) W.e.f. 1-6-2001, every seller collecting tax u/s. 206C shall quote PAN of buyer referred to in that section: (1) in all certificates furnished u/s. 206C(5); and (2) in all returns u/s. 206C(5A)/206C(5B) [Section 139A(5D)[14a]].

(n) Every person receiving any document relating to a transaction referred to in (g) on page 183 should ensure that the PAN or GIR No. is quoted therein.

(o) PAN holders who have been allotted PAN under the new series should not apply for and obtain another PAN.

(p) The Board may make rules providing for: (1) the form of application for PAN [Form No. 49A]; (2) the categories of transactions in relation to which PAN or GIR No. has to be quoted; (3) the categories of documents pertaining to business or profession in which PAN or GIR No. has to be quoted; (4) class or classes of persons to whom provisions of section 139A shall not apply[15]; (5) the form and manner in which the person who has not been allotted a PAN or GIR No. shall make his declaration[15]; (6) the manner in which the PAN or GIR No. shall be quoted in respect of the categories of transactions referred to in (2) above[15]; and (7) the time and manner in which the transactions referred to in (2) above shall be intimated to the prescribed authority.

(q) PAN to be allotted shall have ten alphanumeric characters and issued in the form of a laminated card.

4. RETURN OF INCOME

(i) Voluntary return:

[Section 139(1)/139(1A)/139(1B)/139(4C)/139(6)]

The due dates for filing of return of income for various categories of assessees are as under:

FROM ASSESSMENT YEAR 2001-02 AND ONWARDS:

(a)	where the assessee is a company; or a person (other than a company) whose accounts are required to be audited under Income-tax Act or any other law; or a working partner of a firm whose accounts are required to be audited under Income-tax Act or any other law. . . .	By 31st October[16]
(b)	in the case of a person other than a company, referred to in the 1st proviso to section 139(1) [Refer page 185].	By 31st October
(c)	in the case of any other assessee other than (a) & (b) above . . .	By 31st July[16].

Note: Every company shall furnish on or before the due date (i.e., 31st October of the assessment year) the return in respect of its income or loss in every previous year.

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14. As per Notification No. S.O. 511(E), dt. 11-6-2001 [250 ITR (St.) 9], specified date is: (a) 1-4-2002, in respect of a banking company and a co-operative bank; & (b) 1-6-2001, in respect of every other person.

14a. For notes on amendment made in section 139A(5C) & (5D) by the Finanace (No. 2) Act, 2004, refer para 10.3 on page 340.

15. Under rule 114C(1), w.e.f. 1-11-1998, class or classes of persons to whom provisions of section 139A shall not apply are —

(a) the persons who have agricultural income and are not in receipt of any other income chargeable to income-tax subject to the condition that such person shall make declaration in Form No. 61 in respect of transactions referred to in (a) to (k) of footnote No. 13 on page 183;

(b) the non-residents referred to in section 2(30);

(c) Central Government, State Government and Consular Offices in transactions where they are payers.

Every persons including persons referred to in rule 114C(2) shall ensure that PAN or GIR No. has been duly and correctly quoted in the document or declaration received by such person in respect of transaction referred to in (a) to (k) of footnote No. 13 on page 183.

Under rule 114D, every person referred to in rule 114C(2) shall forward to the concerned Director of Income-tax (Investigation) [or Commissioner of Income-tax (Central Information Branch), w.e.f. 19-6-2002]: (1) copies of declaration of Form No. 60/61, and (2) w.e.f. 19-6-2002, a statement indicating therein details of all documents pertaining to any transaction referred to in (a) to (k) of footnote No. 13 on page 183. However, copies of declaration furnished in respect of transactions referred to in (f) of footnote No. 13 on page 183 (i.e., opening a bank account) shall not be furnished to the said authorities.

W.e.f. 19-6-2002, statement and copies of declaration in Form No. 60/61 shall be forwarded in 2 instalments, that is, the forms received upto 30th September, shall be forwarded latest by 31st October of that year and the declaration till the 31st March shall be furnished latest by 30th April of the same year.

Upto 18-6-2002, all declaration in Form No. 60/61 received during the period from 1st April to 30th September, shall be forwarded latest by 31st October of that year and the declaration received during the period from 1st October to 31st March, shall be furnished by 30th April of the same year.

16. For extended 'Due date' in relation to assessment years 2001-02 to 2004-05, refer 'footnote No. 34' on page 197.

W.e.f. 1-4-2002 (assessment year 2002-03 and onwards), section 139(1A) provides that an individual receiving salary income may, at his option, furnish his return of income to his employer, in accordance with and subject to the conditions specified in the notified scheme, i.e., 'Scheme for Bulk Filing of Returns by Salaried Employees, 2002' [Refer 256 ITR (St.) 13]/Scheme for Filing of Returns by Salaried Employees through Employer, 2004 [Refer 265 ITR (St.)35]. The employer in turn shall furnish all such returns received by him from the employees before the due date in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as specified in the said Scheme. The employee in such a case will be deemed to have furnished a return of income u/s. 139(1).

W.e.f. 1-4-2003, section 139(1B) provides that return of income can be filed, at the option of the assessee, on or before the due date specified u/s. 139(1), in accordance with and subject to the conditions specified in the scheme notified by the Board[16a], in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in the said notified scheme. The assessee in such a case will be deemed to have furnished a return of income u/s. 139(1).

W.e.f. 1-4-2003 (assessment year 2003-04 and onwards), section 139(4C) provides that every: (a) scientific research association referred to in section 10(21); (b) news agency referred to in section 10(22B); (c) association or institution referred to in section 10(23A); (d) institution referred to in section 10(23B); (e) fund or institution, trust, hospital, etc. referred to in section 10(23C)(iv)/(v)/(vi)/(via); and (f) trade union referred to in section 10(24)(a)/(b), will have to file its return of income in the prescribed Form, if income, without giving effect to provisions of section 10, exceeds the maximum amount not chargeable to income-tax. All the provisions of the Income-tax Act shall apply as if it were a return required to be furnished u/s. 139(1).

The assessee is required to furnish prescribed information along with return of income. Details of his bank account and credit card held by him also should be furnished along with the return of income [Section 139(6)].

The dates specified above are mandatory. The Assessing Officer does not have power to extend the due dates mentioned above. Assessing Officer will not issue notice under section 139 requiring the assessee to furnish the return of income. But he may issue such a notice under section 142(1)(i), if the assessee has not filed a return within the time allowed as above. To illustrate, if the return of income for the assessment year 2004-05 is not filed by 31-10-2004, by an assessee falling under category (a) on page 184, Assessing Officer may issue notice u/s. 142(1)(i) to the assessee to furnish the said return of income, on or after 1-11-2004.

Where an assessee files a return of income after the due dates mentioned above, interest at specified rate for every month or part of a month of the delay in filing return will be levied u/s. 234A in the manner explained in item 1(a) on page 197. Where a return of income is filed after the end of the relevant assessment year, penalty will be levied u/s. 271F (For details, refer page 204). It may be noted that, return of income below taxable limit can be filed by an assessee.

OBLIGATORY FILING OF RETURN OF INCOME BASED ON ECONOMIC INDICATORS:

Under 1st proviso to section 139(1), a person not filing return u/s. 139(1) and residing in such area[17] as is notified by the Board, should file his return of income in the prescribed Form No. 2C by the due date[18] specified u/s. 139(1), if he, at any time during the previous year, fulfils any one of the following conditions –

(i) is in occupation of an immovable property exceeding a specified floor area[19], whether by way of ownership, tenancy or otherwise, as may be specified by the Board; or

(ii) is the owner or the lessee of a motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not [as defined in section 2(28) of the Motor Vehicles Act, 1988]; or

[20]*(iii)* is a subscriber to a cellular telephone not being a wireless in a local loop telephone; or

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16a. The scheme notified is " Electronic Furnishing of Returns of Income Scheme, 2003" [Vide Notification No. S.O. 856(E), dt. 25-7-2003: 262 ITR (St.) 29].

17. For notified areas, refer Notification No.: S.O. 468 (E), dt. 27-6-1997: 226 ITR (St.) 30; S.O. 669(E), dt. 6-8-1998: 232 ITR (St.) 28; S.O. 242(E), dt. 9-4-1999: 237 ITR (St.) 26; S.O. 372 (E), dt. 10-4-2000 : 244 ITR (St.) 38; S.O. 373 (E), dt. 10-4-2000: 244 ITR (St.) 80; S.O. 409(E), dt. 10-5-2001: 249 ITR (St.) 113; & S.O. 410(E), dt. 10-5-2001: 249 ITR (St.) 114 [Refer Circular No. 10, dt. 19-7-2001: 250 ITR (St.) 82].

18. In respect of persons filing returns of income under the 1st proviso to section 139(1), the due date in terms of *Explanation* under section 139(1) —

(a) for assessment year 2001-02 is extended to 31-3-2002 [Vide PIB Release dt. 8-1-2002: 253 ITR (St.) 76]. Consequently, interest u/s. 234A shall not be levied upto 31-3-2002;

(b) for assessment year 2002-03 is extended to 31-3-2003 [Vide F. No. 220/4/2002-ITA-II, dt. 21-10-2002: 258ITR (St.) 80]. Consequently, interest u/s. 234A shall not be levied upto 31-3-2003.

19. For specified floor areas, refer Notification No.: S.O. 467 (E), dt. 27-6-1997: 226 ITR (St.) 30; S. O. 668 (E), dt. 6-8-1998: 232 ITR (St.) 27; S.O. 243 (E), dt. 9-4-1999: 237 ITR (St.) 27; & S.O. 409(E), dt. 10-5-2001: 249 ITR (St.) 113 [Refer Circular No. 10, dt. 19-7-2001: 250 ITR (St.) 82].

20. Upto 31-3-2002, for above item (iii), read, "(iii) is a subscriber to a telephone; or".

(iv) has incurred expenditure for himself or any other person on travel to any foreign country; or

(v) is the holder of the credit card [other than Kisan Credit Card: Vide Circular No. 795, dt. 1-9-2000: 245 ITR (St.) 61], not being an "add-on" card, issued by any bank or institution; or

(vi) is a member of a club where entrance fee charged is Rs. 25,000 or more.

2nd proviso to section 139(1) provides that the Central Government may notify class or classes of persons[21] to whom provisions of 1st proviso to section 139(1) shall not apply.

Travelling to neighbouring countries[22] or to such places of pilgrimage[23] as may be notified by the Board will not be treated as travel to any foreign country for the purposes of filing return of income under 1st proviso to section 139(1) [Vide *Explanation* 3/4 to section 139(1)].

Failure to file the return as above will attract a penalty u/s. 271F [For details, refer page 204]. The burden of proving reasonable cause for the default will be on the person [Section 273B].

(ii) Loss return:
[Section 139(3) read with section 80]

If any person has suffered a loss in any previous year under the head "Profits or gains of business or profession" or under the head "Capital gains" and claims that the loss be carried forward and set off against the profits under the same head for the subsequent assessment year, then, he must file the return of income showing the loss within the time allowed under section 139(1) [i.e., by the due date for furnishing the return], failing which he would forfeit his right to the carry forward of the loss to succeeding year(s). For further details regarding carry forward of loss, refer page 191.

(iii) Belated return:
[Section 139(4)]

If an assessee has not furnished a return of income under section 139(1) or in response to notice under section 142(1)(i), he may furnish the return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

The assessee will be liable to pay interest under section 234A, for the period of delay [Refer Interest Chart on page 201]. Where a return of income is filed after the end of the relevant assessment year, penalty will be levied u/s. 271F [For details, refer page 204].

(iv) Revised return:
[Section 139(5)]

If after furnishing a return, any omission or wrong statement is discovered, a revised return can be filed under section 139(5) at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. No interest under section 234A is chargeable on the basis of the date of filing of the revised return.

(v) Defective return:
[Section 139(9)[23a]]

The procedure for assessment as laid down in Chapter XIV of the Income-tax Act starts with the filing of return of income under the provisions of section 139. It is, therefore, essential that the return filed should be correct and complete in all respects and should be accompanied by prescribed statements and copies of accounts and proofs in respect of tax deducted at source and the advance tax and tax on self-assessment, if any, claimed to have been paid.

Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee for rectifying the same within 15 days from the date of such intimation or within such further period which he may grant, on an application made in this behalf. If the defect is not rectified within the period allowed, the return filed will be treated as invalid and the assessee would render himself liable to the resultant consequences such as *ex-parte* assessment, interest for non-submission of a valid return, etc. The requirements which will have to be fulfilled in order to ensure that a return is not considered to be defective are mentioned in the *Explanation* to sub-section (9) of section 139 given hereafter. It will, therefore, be in the interest of the assessee to conform to the specified requirements in order to avoid any penal actions consequent on the filing of a defective return.

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21. As per Notification S.O. No. 710(E), dt. 20-8-1998: 233 ITR (St.) 30/S.O. No. 507(E), dt. 11-6-2001: 250 ITR (St.) 8, provisions of 1st proviso to section 139(1) shall not apply to: (a) a non-resident in regard to conditions specified in (i) to (vi) above; and (b) an individual who has attained 65 years of age but is not engaged in any business or profession during the previous year in regard to conditions specified in (i) or (iii) above.

As per Notification S.O. No. 53(3), dt. 12-1-2004: 265 ITR (St.) 39, provisions of 1st proviso to section 139(1) shall not apply to the class of persons being individuals who have income from pension but are not engaged in any business or profession during the previous year.

22. As per Notification S.O. No. 712(E), dt. 20-8-1998: 233 ITR (St.) 31/S.O. 509(E), dt. 11-6-2001: 250 ITR (St.) 8, "travel to any foreign country" shall not include travel to neighbouring countries, viz., Bangladesh; Bhutan; Maldives; Nepal; Pakistan and Sri Lanka.

23. As per Notification S.O. No. 711(E), dt. 20-8-1998: 233 ITR (St.) 30/S.O. 508(E), dt. 11-6-2001: 250 ITR (St.) 8, travel to: (a) Saudi Arabia on Haj Pilgrimage organised by the Central Haj Committee, Mumbai, constituted under the Haj Committee Act, 1959; and (b) China on pilgrimage to Kailash Mansarovar organised by the Ministry of External Affairs, Government of India, are the places of pilgrimage specified and travel to such places shall not be regarded as travel to any foreign country.

23a. For the notes on amendment in clause (c) of the Explanation to section 139(9) by the Finanace (No. 2) Act, 2004, refer para 10.1 on page 339.

However, where the defect is rectified after the expiry of 15 days or extended time allowed by the Assessing Officer but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

REQUIREMENTS TO BE FULFILLED UNDER EXPLANATION TO SECTION 139(9):

A return of income shall be regarded as defective unless all the following conditions are fulfilled:

(i) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;

(ii) the return is accompanied by a statement showing the computation of the tax payable on the basis of the return;

(iii) the return is accompanied by proof of the tax, if any, claimed to have been deducted at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. W.e.f. 1-6-2002, return of income shall not be regarded as defective if: (a) certificate for tax deducted at source was not furnished u/s. 203 to the person furnishing his return of income; and (b) such certificate is produced within a period of 2 years specified in section 155(14). Under section 155(14), the said period is within 2 years from the end of the assessment year relevant to previous year and subject to condition that the income covered under TDS certificate has been disclosed in the return of income filed by the assessee for the relevant assessment year;

(iv) where regular books of account are maintained by the assessee, the return is accompanied by copies of—

(a) manufacturing account, trading account, profit & loss account or income and expenditure account or any other similar account and balance-sheet;

(b) in the case of a proprietory business or profession, the personal account of the proprietor; in the case of a firm or association of persons (AOP) or body of individuals (BOI), personal accounts of the partners or members; and in the case of a partner or member of a firm or AOP or BOI, also his personal account in the firm or AOP or BOI;

(v) where the accounts have been audited, the return is accompanied by copies of the audited profit and loss account, balance sheet and the auditor's report and where an audit of cost accounts has been conducted u/s. 233B of the Companies Act, 1956, also the report under that section;

(vi) where the accounts have been audited u/s. 44AB of the Income-tax Act, the return is accompanied by:

(*a*) the report of audit referred to in section 44AB, if the return is filed by the 'due date' of furnishing the return of income,

(*b*) a copy of the report of audit u/s. 44AB and proof of filing thereof by the 'specified date' [i.e., 31st October], if the return is filed after the 'due date' of furnishing the return of income;

(vii) where regular books of account are not maintained by the assessee, the return is accompanied by—

(1) a statement indicating the amounts of turnover or gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and

(2) the list of sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

(vi) Return by whom to be signed:
[Section 140]

The following persons should sign and verify the return of income:

(a) In the case of an individual—
(1) by the individual himself; or
(2) if he is absent from India, by a person duly authorised by him[24]; or
(3) if he is mentally incapacitated, by his guardian or any person competent to act on his behalf; or
(4) if it is not possible for the individual to sign for any other reason, by a person duly authorised by him[24].

(b) In the case of a Hindu undivided family, by the karta. If he is absent from India or is mentally incapacitated, by any other adult member of such family.

(c) In the case of a company, by the managing director. If for any unavoidable reason he is unable to sign or where there is no managing director, by any director. If the company is not resident in India, by a person holding a valid power of attorney which shall be attached to the return. If the company is in liquidation, by the liquidator referred to in section 178(1). If the company is taken over by the Central or State Government, by the principal officer thereof.

24. Authorised person should hold a valid power of attorney to do so and the same should be attached to the return.

(d) In the case of a firm, by the managing partner. If for any unavoidable reason he is unable to sign or where there is no managing partner, by any partner who is not a minor.

(e) In the case of a local authority, by the principal officer thereof.

(f) In the case of a political party referred to in section 139(4B), by the chief executive officer of such party.

(g) In the case of any other association, by any member or principal officer of the association.

(h) In the case of any other person, by that person or by some person competent to act on his behalf.

5. ASSESSMENTS AND REASSESSMENTS UNDER THE INCOME-TAX ACT, 1961

(i) Self-assessment:

(Section 140A)

Under section 140A(1), if any tax is payable on the basis of the return of income required to be furnished under section 139 or 142(1)(i) or 148 or 153A (w.e.f. 1-6-2003) or 158BC, then, such tax shall be paid before the filing of the return and the return shall be accompanied by proof of payment of such tax (i.e., a copy of the self-assessment challan). Interest, if any, payable for delayed filing of return of income u/s. 234A [Refer page 197] or for default or deferment in payment of advance tax u/s. 234B & 234C [Refer item (7)(i) & (7)(ii) on pp. 289-292], such interest upto the date of furnishing the return also should be paid along with self-assessment tax. Where the amount paid as self-assessment falls short of tax and interest payable on the basis of return, the amount paid will be first adjusted against the interest and the balance, if any, against the tax payable. For the purpose of computing the interest payable u/s. 140A(1): (a) interest u/s. 234A is to be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted/collected at source [Section 140A(1A)]; and (b) interest u/s. 234B is to be computed on an amount equal to the 'assessed tax' or, as the case may be, on the amount by which the advance tax paid falls short of the 'assessed tax'. 'Assessed tax', for this purpose, means the tax on total income as declared in the return as reduced by the amount of tax deducted/collected at source on any income, which is subject to such deduction/collection under Chapter XVII, and which is taken into account in computing such total income [Section 140A(1B)].

For the failure to pay the self-assessment tax, the assessee would be deemed to be in default u/s. 140A(3) and recovery proceedings would be initiated against him. However, there is no provision to levy penalty for such default u/s. 140A(3).

(ii) Regular assessment:

(Sections 143 & 144)

Regular assessment means the assessment made under section 143(3) or section 144.

(A) ACCEPTANCE OF RETURN WITHOUT CALLING THE ASSESSEE:

[Section 143(1)]

On filing of the return of income, if any tax and/or interest is found due on the basis of return, an intimation will be sent to the assessee demanding payment thereof [Section 143(1)(i)]. If refund is due, it will be granted to the assessee and an intimation of refund will be sent to the assessee [Section 143(1)(ii)]. The intimation u/s. 143(1) cannot be sent to the assessee after the expiry of: (1) two years from the end of the relevant assessment year [applicable upto 31-5-2001]; *(2) one year from the end of the financial year in which the return is made (i.e., filed) [applicable w.e.f. 1-6-2001]* [2nd proviso to section 143(1)]. However, intimation in respect of assessment year 1999-2000 can be sent upto 31-3-2002 [3rd proviso to section 143(1)]. If no tax and/or interest is payable by, or refund is due to, the assessee, no intimation will be sent. However, in such a case, the acknowledgment of the return issued by the department at the time of filing return of income will be deemed to be intimation [1st proviso to section 143(1)].

An assessee can file rectification application against deemed intimation (i.e., acknowledgment for return) or an intimation of tax/refund u/s. 154(1)(b).

(B) ASSESSMENT AFTER HEARING THE ASSESSEE[24a]:

[Section 143(2)/143(3)]

(1) LIMITED SCRUTINY:

W.e.f. 1-6-2002, if an Assessing Officer (AO) has reason to believe that an assessee has made any claim of loss, exemption, deduction, allowance or relief in the return, which is inadmissible, he will issue a notice u/s. 143(2)(i) to the assessee. Such a notice has to specify the particulars of such inadmissible claims and require the assessee to produce any evidence or particulars specified therein or on which the assessee may rely, in support of such claim. Such a notice has to be served before the expiry of 12 months from the end of the month in which the return is furnished.

After taking into account the evidence/particulars produced and after hearing the assessee, the AO may allow or reject the claim(s) specified in the said notice and make an assessment u/s. 143(3)(i) determining the total income/loss and the sum payable on the basis of such assessment. The assessment made u/s. 143(3)(i) shall be limited

24a. For the notes on new section 142A inserted by the Finance (No. 2) Act, 2004, refer para 10.4 on page 340.

to the claims specified in the notice issued u/s. 143(2)(i). If the AO feels that on other issues scrutiny is required, he will issue a notice u/s. 143(2)(ii) and make an assessment u/s. 143(3)(ii) as explained in (2) hereafter.

Proviso to section 143(2)(i) provides that, no notice u/s. 143(2)(i) (i.e., limited scrutiny assessment) can be served on the assessee on or after 1-6-2003. That is, limited scrutiny can be done by AO if notice is served on or after 1-6-2002 but before 1-6-2003. After 1-6-2003, proceedings for limited scrutiny cannot be initiated by AO.

(2) GENERAL SCRUTINY:

Where the Assessing Officer decides to scrutinise the return of income filed by the assessee, he will issue a notice under section 143(2)/143(2)(ii) requiring the assessee either to attend his office or to produce, or cause to be produced there, evidence in support of the return filed. Such a notice has to be served before the expiry of 12 months from the end of the month in which the return is furnished. He may also call for the production of any accounts and documents by issuing notice under section 142(1).

It may be noted that having regard to the nature and complexity of accounts of the assessee and in the interests of the revenue, the Assessing Officer may direct the assessee, after obtaining previous approval of the Chief Commissioner or Commissioner, to get the accounts audited by an accountant, nominated by the Chief Commissioner or Commissioner in this behalf, and to submit the report of such audit in the prescribed Form No. 6B duly signed and verified by such accountant [Section 142(2A)].

The assessment shall then be made under section 143(3)/143(3)(ii) on the basis of evidence produced or report of audit, as the case may be. On the basis of such assessment, the Assessing Officer will determine the sum payable by the assessee or sum refundable to the assessee. For this purpose, the tax and/or interest paid by the assessee u/s. 143(1) will be deemed to have been paid towards such regular assessment. Where it is found that excess refund has been granted u/s. 143(1), it shall be recovered, treating it as tax payable. The assessment so made is appealable.

(C) BEST JUDGMENT ASSESSMENT:
(Section 144)

This is an *ex-parte* assessment called the "best judgment assessment" and is made in the following circumstances:

(i) failure to file return of income under section 139(1) or 139(4) or 139(5) of the Act; or

(ii) failure to comply with all the terms of a notice under section 142(1); or failure to comply with directions issued under section 142(2A); or

(iii) having filed the return of income, the assessee fails to comply with the terms of a notice issued under section 143(2).

The Assessing Officer, after taking into account all relevant material and after giving the assessee an opportunity of being heard, will make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment. Where a notice under section 142(1) had been issued to the assessee prior to making of an assessment under section 144, then, notice of opportunity of being heard as stated above will not be given by the Assessing Officer.

(D) APPEAL AGAINST EX-PARTE ASSESSMENT:
(Sections 246A & 264)

An assessee has right to file an appeal against the *ex-parte* assessment to the Commissioner (Appeals) under section 246A or to file revision application under section 264 to the Commissioner.

Section 249(4)(b) provides that an appeal against the *ex-parte* assessment order (where no return has been filed) shall not be admitted unless the assessee has paid an amount equal to the amount of advance tax which was payable by him.

This requirement can be waived by the Commissioner (Appeals) for any good and sufficient reasons, on an application being made by the appellant.

(iii) Reassessment:
(Sections 147 to 151)

Where the Assessing Officer has reason to believe that income assessable to tax has escaped assessment, he may reopen the relevant assessment, after recording his reasons for doing so, by issuing a notice under section 148[25] calling

25. (a) In case of assessment done u/s. 143(3) or 147, notice u/s. 148 can be issued: (1) by the Assessing Officer of the rank of Income-tax Officer with the approval of Joint Commissioner, or (2) by the Assistant Commissioner or Deputy Commissioner or Joint Commissioner, prior to the expiry of 4 years from the end of the relevant assessment year. After the expiry of the said 4 years, such notice can be issued with the prior approval of the Chief Commissioner or Commissioner [Section 151(1)]. Also, such notice is to be issued after the expiry of four years only where income has escaped assessment due to the failure of the assessee either to file a return of income u/s. 139 or to disclose fully and truly all material facts necessary for his assessment for that assessment year [Proviso to section 147].

(b) In a case other than a case referred to in (a) above, that is ex-parte assessment u/s. 144 or acceptance of return u/s. 143(1), the Assessing Officer or the Assistant Commissioner or Deputy Commissioner can issue notice u/s. 148 before the expiry of 4 years from the end of the relevant assessment year. After expiry of the said 4 years, such notice can be issued with the prior approval of the Joint Commissioner. The Joint Commissioner, if he is the Assessing Officer, can issue the notice without any such prior approval, before the expiry of 6 years from the end of the relevant assessment year [Section 151(2)].

upon the assessee to file a return. The return called for will have to be furnished by the assessee within the time specified in the notice issued u/s. 148(1). W.e.f. 1-6-2001[26], the time limit for issuing of such a notice u/s. 149 is as under:

(a) if income escaping assessment is less than Rs. 1,00,000 . . 4 years from the end of the relevant assessment year,

(b) if income escaping assessment is Rs. 1,00,000 or more . . 6 years from the end of the relevant assessment year.

To illustrate, earliest assessment that can be reopend, by issuing notice on or after 1-4-2004 but before 1-4-2005, will be —

(a) assessment year 2000-01, where escaped income is less than Rs. 1,00,000; and

(b) assessment year 1998-99, where escaped income is Rs. 1,00,000 or more.

(iv) Time limit for completion of assessment or reassessment: (Section 153)

The time limit for the completion of assessment under sections 143 or 144 or assessment, reassessment or recomputation under section 147 is as under:

(1) *For assessment under section 143 or 144:* assessment proceedings have to be completed within two years from the end of the relevant assessment year.

Illustration: Suppose the return of income for the assessment year 2004-05 is filed by the assessee on 10-12-2004, the Assessing Officer has to complete the assessment on or before 31-3-2007 provided notice u/s. 143(2) is served on or before 31-12-2005.

(2) *For assessment, reassessment or recomputation u/s. 147:* Section 153(2) provides that assessment proceedings have to be completed within 1 year [2 years, upto 31-5-2001] from the end of the financial year in which notice u/s. 148 was served.

Section 153(2A) provides for time limit for completion of fresh assessment in pursuance of assessment set aside or cancelled in appeal or revision. Time limit for completion of fresh assessment is 1 year [as against 2 years, upto 31-5-2001] from the end of the financial year in which —

(a) the order u/s. 250 or 254 (i.e., appellate order) is received by the Chief Commissioner or Commissioner, as the case may be,

(b) the order u/s. 263 or 264 (i.e., revisionary order) is passed by the Chief Commissioner or Commissioner.

Where the Assessing Officer (AO) directs the accounts of the assessee to be audited u/s. 142(2A), the period from the date of such direction to the last date on which the assessee is required to furnish the audit report, namely, the period specified by the AO in the notice u/s. 142(2C), is to be excluded from the limitation period [Vide clause (iii) of the *Explanation 1* to section 153]. The AO is empowered u/s. 142(2C) to extend the time limit originally fixed by him in the notice, subject to the condition that the aggregate of the period originally fixed and that extended should not exceed 180 days.

(v) Rectification of mistake: (Section 154)

Section 154 provides that with a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may—

(a) amend any order passed by it under the provisions of the Income-tax Act,

(b) amend any intimation or deemed intimation u/s. 143(1),

within four years from the end of the financial year in which the order sought to be amended was passed.

As the Assessing Officer can rectify intimation within the normal time limit of 4 years prescribed u/s. 154(7), assessees are advised to file also an appeal u/s. 246/246A against such intimation.

W.e.f. 1-6-2001, section 154(8) provides that where rectification application is made by the assessee, on or after 1-6-2001, to an income-tax authority, the authority shall pass an order making the amendment or refusing to allow the claim within a period of 6 months from the end of the month in which the application is received by it.

Where the rectification has the effect of enhancing an assessment or reducing the refund originally granted or otherwise increasing the liability of the assessee, a show cause notice is required to be issued to the assessee before the order of rectification is passed.

Where application for rectification has been filed by the assessee within the statutory time limit u/s. 154(7), i.e., four years, but was not disposed off by the authority concerned within the said specified time, it may be disposed off by that authority even after the expiry of the time limit [Circular No. 73 dated 7-1-1972: Refer 84 ITR (St.) 4].

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26. Upto 31-5-2001, for the time limit for issue of such notice u/s. 149, refer sub-items (i) & (ii) of item (iii) on pp. 180-181 of ITRR 2001-02 (63rd Year of Publication).

6. AVOIDANCE OF TAX BY CERTAIN TRANSACTIONS IN SECURITIES/UNITS [Section 94(7)][26a]

Section 94 deals with avoidance of tax by certain transactions in securities. W.e.f. 1-4-2002 (assessment year 2002-03 and onwards), section 94(7) provides that where any person buys or acquires any securities or unit within a period of 3 months prior to the record date & sells or transfers the same within a period of 3 months after such record date and dividend or income on such securities or unit is exempt, then, the loss, if any, arising from the said sale will be ignored to the extent of such exempt dividend or income. The term 'interest'/'record date'/'securities'/ 'unit' is defined in clause(a)/(aa)/(b)/(d) of the *Explanation* to section 94. The provisions of section 94(7) deals with purchase of securities/unit cum-dividend/cum-income and sale thereof ex-dividend/ex-income within 3 months before and after the record date. In such cases, the resultant loss will be reduced by the dividend/income which is exempt and only the balance loss will be allowed to be set off.

7. MISCELLANEOUS PROVISIONS

(A) TREATMENT OF LOSSES:

(i) Set off and carry forward of losses:

(Sections 70, 71[26b], 71A, 71B & 72)

From assessment year 2003-04 and onwards:

Loss under any source falling under any head of income, other than "Capital gains", is to be set off against income from any other source under the same head of income in the same assessment year [Section 70(1)]. Loss relating to short-term capital asset is to be set off against gains from long-term capital assets and/or gains from any other short-term capital assets in the same assessment year [Section 70(2)]. Loss relating to long-term capital asset is to be set off only against gains from any other long-term capital assets in the same assessment year [Section 70(3)].

Upto assessment year 2002-03:

Loss under any source falling under any head of income (i.e., even "Capital gains") is to be set off against income from any other source under the same head of income in the same assessment year [The then section 70].

From assessment year 2001-02 and onwards:

Loss under any source falling under any head of income, other than "Capital gains", is to be set off against income from any other source under any other head of income in the same assessment year [Section 71(1)].

Where there is income under the head "Capital gains" and loss under any other head of income, the assessee has option either to set off of such loss against income under the head "Capital gains" (whether short-term or long-term) or not to claim such set off in the same assessment year [Section 71(2)].

For the notes in respect of loss under the head "Capital gains", refer sub-item (iv) on page 193.

For the notes in respect of loss under the head "Income from house property", refer item (vi) on page 101.

Under section 72, unabsorbed business losses in a previous year can be carried forward and set off against income in the subsequent previous year subject to certain conditions given hereunder:

(a) loss arising from business or profession can be carried forward and set off for eight succeeding assessment years; but only against profits and gains from business or profession;

(b) where in addition to unabsorbed business loss, there is unabsorbed depreciation, effect should be given to unabsorbed business loss first;

(c) the loss must have been determined in pursuance of a return filed within the time allowed u/s. 139(1); and

(d) loss in speculation business will be treated separately. Such losses can be set off only against speculation profit of eight succeeding assessment years as provided in section 73.

(ii) Carry forward and set off of accumulated loss & unabsorbed depreciation allowance in amalgamation or demerger, etc.:

(Section 72A)

(A) COMPANY OWNING AN INDUSTRIAL UNDERTAKING OR A SHIP OR A HOTEL OR A BANKING COMPANY AMALGAMATING WITH ANOTHER COMPANY:

Provisions of section 72A are applicable where there has been an amalgamation of a company owning an industrial undertaking or a ship with another company. From assessment year 2004-05 and onwards, provisions of section 72A have been extended also to: (1) a company owning hotel amalgamating with another company; and (2) an amalgamation of a banking company referred to in section 5(c) of the Banking Regulation Act, 1949 with a specified bank[27].

26a. For the notes on amendment of section 94(7), & new section 94(8) by the Finance (No. 2) Act, 2004, refer para 11.1 on page 340.

26b. For the notes on sub-section (2A) inserted in section 71 by the Finance (No. 2) Act, 2004, refer para 4.2 on page 44.

27. "Specified bank" is defined to mean the State Bank of India, or its subsidiaries or a new bank constituted u/s. 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 [Section 72A(7)(c)].

Section 72A(1) provides that accumulated loss and unabsorbed depreciation of amalgamating company can be carried forward and set off against the profits of amalgamated company subject to the fulfilment of conditions specified u/s. 72A(2). The following conditions are to be fulfilled by—

(1) the amalgamated company —

(a) holds continuously, at least three-fourths in the book value of fixed assets of the amalgamating company acquired as a result of amalgamation, for five years from the date of amalgamation;

(b) continues the business of the amalgamating company for at least five years from the date of amalgamation;

(c) fulfils such other conditions as prescribed in Rule 9C to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

(2) the amalgamating company (in relation to assessment year 2004-05 and onwards) —

(a) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(b) has held continuously, as on the date of amalgamation, at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation.

In case the above conditions are not fulfilled, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company for the year in which such conditions are not complied with [Section 72A(3)].

"Industrial undertaking" means any undertaking which is engaged in: (a) the manufacture or processing of goods; or (b) the manufacture of computer software; or (c) the business of generation or distribution of electricity or any other form of power; or (d) mining; or (e) the construction of ships, aircrafts or rail systems; or (f) from assessment year 2003-04 and onwards, the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services [Section 72A(7)(aa)].

The benefits available to the amalgamated company are:

(1) in the year of amalgamation, the unabsorbed loss of the amalgamating company could be set off against the income of the amalgamated company under any head of income. This is so because the unabsorbed loss of the amalgamating company becomes the "current loss of the amalgamated company" in the year of amalgamation. Hence the provisions of section 71 will apply,

(2) the amalgamated company can carry forward and set off accumulated loss/unabsorbed depreciation of the amalgamating company as if no amalgamation had taken place. That is overall period of eight years for set off will be counted from the year of loss of the amalgamating company.

(B) FIRM/SOLE PROPRIETORY CONCERN IS SUCCEEDED BY A COMPANY:

Where there has been reorganisation of business, whereby, a firm/sole proprietory concern is succeeded by a company fulfilling the conditions laid down in section 47(xiii)/47(xiv), then, accumulated loss and the unabsorbed depreciation of the firm/sole proprietory concern shall be deemed to be the loss or allowance for depreciation of the successor company for the previous year in which the business reorganisation was effected. Such set-off will be allowed as if no succession had taken place. That is, the overall period of eight years for set-off will be counted from the year of loss/allowance for depreciation of firm/sole proprietory concern. However, if any of the conditions laid down in the proviso to section 47(xiii)/47(xiv) are not complied with, the set-off of loss or allowance for depreciation made in any previous year in the hands of successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with [Section 72A (6)/ 72A (7)(a) & (b)].

(C) DEMERGER OF COMPANIES:

In the case of a demerger of companies, the accumulated loss and allowance for unabsorbed depreciation of the demerged company shall be set off in the hands of resulting company in the following manner–

(a) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, it will be allowed to be carried forward and set off in the resulting company;

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

The set off of such loss or unabsorbed depreciation of the demerged company will be allowed in the hands of resulting company as if no demerger had taken place. That is, overall period of eight years for set off will be counted from the year of loss/allowance for depreciation of the demerged company.

The Central Government is empowered to notify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes [Section 72A(4)/ 72A(5)/ 72A(7)(a) & (b)].

(iii) Speculation loss:
(Section 73)

Speculation loss can be set off in the same year only against the speculation profits. Unabsorbed speculation loss will be carried forward and set off against speculation profits of the subsequent assessment years upto 8 years. It may, however, be noted that loss under any other head of income other than "Capital gains", can be set off against the speculation profits in the same assessment year under section 71.

The business of purchase or sale of shares by companies (which are not investment, banking or financial companies) shall be treated as speculation business. The loss from such dealings can be set off only against profits or gains of a speculation business (*Explanation* to section 73).

In respect of speculation business, the assessee has an option as under:

(i) either to first set off the speculation losses carried forward from an earlier year against the speculation profits of the current year and then to set off the current year's losses from other sources against the remaining part, if any, of the current year's speculation profits;

(ii) or to first set off the current year's losses from non-speculation business and other sources against the current year's speculation profits and then to set off the carried forward speculation losses of the earlier years against the remaining part, if any, of the current year's speculation profits [Vide Circular No. 23 (XXXIX-4), dt. 12-9-1960].

(iv) Loss under the head "Capital gains":
(Section 74)

From assessment year 2003-04 and onwards:

Loss relating to short-term capital asset is to be set off against gains from long-term capital assets and/or gains from any other short-term capital assets in the same assessment year [Section 70(2)]. Loss relating to long-term capital asset is to be set off only against gains from any other long-term capital assets (and not gains from any short-term capital assets) in the same assessment year [Section 70(3)].

Capital loss (short-term or long-term) which cannot be set off in the same assessment year can be carried forward for set off. Unabsorbed loss relating to short-term capital asset is to be carried forward and set off against income from capital gains, both long-term and short-term [Section 74(1)(a)]. Unabsorbed loss relating to long-term capital asset is to be carried forward and set off only against long-term capital gains and not against short-term capital gains [Section 74(1)(b)]. Unabsorbed loss (short-term or long-term) can be carried forward for eight succeeding assessment years [Section 74(2)].

Upto assessment year 2002-03:

Loss relating to short-term capital asset and long-term capital asset will not be treated separately. Such loss cannot be set off against income under any other head of income (other than "Capital gains") in the same assessment year [Section 71(3)]. Loss relating to short-term capital asset can be set off against gains from long-term capital assets and/or gains from any other short-term capital assets in the same year. Loss relating to long-term capital asset can be set off against gains from short-term capital assets and/or gains from any other long-term capital assets in the same year.

Capital loss (short-term or long-term) which cannot be set off in the same year can be carried forward and set off against income from capital gains, both long-term and short-term. The unabsorbed capital loss can be carried forward for eight succeeding assessment years.

(v) Losses from races including horse races:
(Section 74A)

The loss arising from owning and maintaining race horses will be allowed to be set off in the same year from the income arising out of owning and maintaining race horses only.

The losses incurred by the owners of race horses in the activity of owning and maintaining such horses which cannot be wholly set off in the same year in which the loss is incurred are allowed to be carried forward under section 74A(3) and set off against income from the same source in subsequent years upto a period of four assessment years immediately following the assessment year for which the loss is first computed.

(vi) Losses of firms & their partners:
[Sections 75 & 78]

Unabsorbed loss (apportioned to a partner), if any, of the firm relating to assessment year 1992-93 and earlier years which could not be fully set off in the hands of partner upto assessment year 1992-93, will be set off against the income of the firm in assessment year 1993-94 and subsequent years. This is subject to the condition that the said partner continues in the said firm and that such set off is in accordance with sections 70, 71, 72, 73, 74 & 74A [Section 75].

The loss of firm relating to assessment year 1993-94 and subsequent years, will be set off only in the hands of the firm. However, share relatable to an outgoing partner, either by retirement or death, will be excluded for the purposes of such setting off [Section 78(1)].

EXAMPLE: The firm consists of partners A, B, C & D with equal shares i.e., 25% each. During the previous year relevant to assessment year 2004-05, partner D has retired from 1-4-2003 and in his place E has been taken up as partner with the same share i.e., 25%. For the assessment year 2004-05, the firm is assessed on business income of Rs. 1,15,000 without set off of the loss of the preceding years. Unabsorbed business loss apportioned to partner A of the firm for assessment year 1992-93, which could not be fully set off in the hands of A in the said assessment year is Rs. 20,000. The assessed business loss of the firm for assessment year 1993-94 is Rs. 50,000, for assessment year 1994-95 is Rs. 15,000, for assessment year 1995-96 is Rs. 10,000, for assessment year 1996-97 is Rs. 5,000, for assessment year 1997-98 is Rs. 10,000, for assessment year 1998-99 is Rs. 5,000 for assessment year 1999-2000 is Rs. 5,000, for assessment year 2000-01 is Rs. 10,000, for assessment year 2001-02 is Rs. 60,000, for assessment year 2002-03 is Rs. 5,000 and for assessment year 2003-04 is Rs. 20,000. The net assessable business income of the firm for assessment year 2004-05 will be worked out as under:

Business income for the assessment year 2004-05.				Rs. 1,15,000
Less: (1) Unabsorbed loss apportioned to partner A Rs. 20,000 for assessment year 1992-93 cannot be set off as period of 8 succeeding assessment years has expired in assessment year 2000-01 [Section 72(3)]		Rs. NIL		
(2) Assessed loss of the firm for the assessment years 1993-94 to 1995-96 Rs. 75,000 (Rs. 50,000+ Rs. 15,000+Rs. 10,000) cannot be set off as period of 8 succeeding assessment years has expired in assessment year 2001-02/2002-03/2003-04 [Section 72(3)]		Rs. NIL		
(3) Assessed loss of the firm for the assessment years 1996-97 to 2003-04 [Rs. 5,000 + Rs. 10,000 + Rs. 5,000 + Rs. 5,000 + Rs. 10,000 + Rs. 60,000 + Rs. 5,000+ Rs. 20,000]	Rs. 1,20,000			
Less: Share of partner D who has retired at beginning of assessment year 2004-05 [Vide section 78(1)] i.e., 25% of Rs. 1,20,000	Rs. 30,000	Rs. 90,000	Rs.	90,000
Total income of the firm for the assessment year 2004-05			Rs.	25,000

(vii) Losses of closely-held companies where change in shareholding has taken place: (Section 79)

Unabsorbed loss of closely-held companies relating to earlier previous years will not be set off in a previous year where a change in shareholding has taken place unless in the said previous year, shares carrying atleast 51% of voting power are beneficially held on the last day thereof by the persons who held shares to the similar extent in the previous year in which the unabsorbed loss was incurred. However, change in shareholding in a previous year consequent upon death of a shareholder or transfer of shares by way of gift made by a shareholder to his relative, will not be taken into account for this purpose [1st proviso to section 79(a)].

The minimum shareholding as stated above will not apply to any change in the shareholding of an Indian company, which is subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company, subject to the condition that 51% shareholders of the amalgamating company or demerged foreign company continue to be shareholders of the amalgamated or the resulting foreign company [2nd proviso to section 79(a)].

(viii) Priorities for carry forward and set off of losses and allowances:

The following priorities in the carry forward and set off of losses and allowances will have to be observed:

(i) Current scientific research capital expenditure [Section 35(1)].

(ii) Current depreciation [Section 32(1)].

(iii) Brought forward business/profession losses [Section 72(1)].

(iv) Unabsorbed family planning promotion expenditure [Section 36(1)(ix)].

(v) Unabsorbed depreciation [Section 32(2)].

(vi) Unabsorbed scientific research capital expenditure [Section 35(4)].

(vii) Unabsorbed development allowance [Section 33A(2)(ii)].

(viii) Current development allowance [Section 33A(2)(i)].

(ix) Unabsorbed investment allowance [Section 32A(3)(ii)].

(x) Current investment allowance [Section 32A(3)(i)].

(B) ASSESSMENT OF FIRMS AND ITS PARTNERS:

[Sections 2(24), 10(2A), 15, 28, 40(b), 75, 78, 140, 143, 155, 167A, 184, 185, 187, 188, 188A, 189, 194A(3) & 246/246A]

Salient features of assessment of firms and its partners are—

1. There will be no distinction between registered firm and unregistered firm.

2. All firms, which are assessable as firms, will be charged to tax at maximum marginal rate under section 167A [For assessment year 2001-02, the said rate is 35% as I.T. plus S.C. @ 12% on I.T.; for assessment year 2002-03, the said rate is 35% as I.T. plus S.C. @ 2% of I.T.; for assessment year 2003-04, the said rate is 35% as I.T. plus S.C. @ 5% of I.T.; for assessment year 2004-05, the said rate is 35% as I.T. plus S.C. @ 2½% of I.T.]. For the purposes of payment of advance tax during the financial year ending on 31-3-2005, refer Paragraph C of Part III of the First Schedule to the Finance (No. 2) Act, 2004.

3. Section 184 provides that a firm shall be assessed as a firm if the partnership is evidenced by partnership deed and individual shares of the partners are specified in such deed. **A true copy of such partnership deed certified and signed by all the partners (excluding minors) should be filed along with the *first return of income*.** Once a partnership firm is assessed as a firm for any assessment year, it will continue to be assessed as a firm for subsequent years till a change in constitution of the firm or share of the partners takes place. **Where a change takes place in the constitution of the firm or the share of the partners, the procedure to be followed is the same as in the case of a new firm i.e., a true copy of partnership deed certified and signed by all the partners (excluding minors) should be filed along with the return of income of the relevant assessment year.** It may be noted that return of income of the firm is required to be signed by the managing partner and not by all the partners (excluding minors). If for any unavoidable reason he is unable to sign or where there is no managing partner, then, return is required to be signed by any partner who is not a minor [Vide section 140(cc)].

4. From assessment year 2004-05 and onwards, for failure to follow the procedure (as in Para 3 above) in relation to any assessment year, the firm shall be assessed as a firm for that assessment year (Section 185). In any assessment year where there is any default on the part of a firm as is mentioned in section 144, the firm will be assessed as a firm for that year [Section 184(5)]. However, where a firm is assessed as a firm u/s. 185/184(5), no deduction by way of any payment of interest, salary, bonus, commission or remuneration made by such firm to any of its partner shall be allowed in computing the total income of the firm. Such interest, salary, etc. will not be assessed in the case of such partner as business income u/s. 28(v).

Upto assessment year 2003-04, for failure to follow the prescribed procedure (as in Para 3 above) in relation to any assessment year, the firm shall be assessed as an association of persons for that assessment year [The then section 185]. In any assessment year where there is any default on the part of a firm as is mentioned in section 144, the firm will be assessed as an association of persons for that year [The then section 184(5)].

5. In computing the income of the firm, any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a working partner will be disallowed under section 40(b). Subject to Para 7, even in respect of working partners[28/29], ceilings for remuneration have been prescribed under section 40(b)(v) as under:

(i) FOR PROFESSIONAL FIRMS REFERRED TO IN SECTION 44AA[30]:

(*a*) on the first Rs. 1,00,000 of the book-profit[31] or in case of a loss	Rs. 50,000 or at the rate of 90% of the book-profit[31], whichever is more;
(*b*) on the next Rs. 1,00,000 of the book-profit[31]	at the rate of 60%;
(*c*) on the balance of the book-profit[31]	at the rate of 40%.

(ii) FOR FIRMS OTHER THAN PROFESSIONAL FIRMS:

(*a*) on the first Rs. 75,000 of the book-profit[31] or in case of a loss	Rs. 50,000 or at the rate of 90% of the book-profit[31], whichever is more;
(*b*) on the next Rs. 75,000 of the book-profit[31]	at the rate of 60%;
(*c*) on the balance of the book-profit[31]	at the rate of 40%.

Any payment in excess of the above ceiling will be disallowed in the hands of the firm.

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28. "Working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner [*Explanation* 4 to section 40(b)].

29. The Board has clarified vide Para 48.7 of Circular No. 636, dt. 31-8-1992 [198 ITR (St.) 44] that "The Assessing Officers who invoke the provisions of section 40A(2) in any case, must keep in mind the assurance given by the Finance Minister in his speech dated 30-4-1992 in Parliament during the budget discussion". The assurance given by the Finance Minister is—

"There seems to be some apprehension that the provisions of section 40A(2) of the I.T. Act, may be indiscriminately resorted to by the Assessing Officer (AO) to make disallowance out of salary paid to the partners as being excessive. The Central Board of Direct Taxes will be asked to issue instructions to the AO so as to ensure that this power is not used in the case of small firms and even otherwise, it should be used sparingly".

30. Profession referred to in section 44AA(1) is legal, medical, engineering or architectural profession or profession of accountancy or technical consultancy or interior decoration or any other notified profession (i.e., authorised representative, film artist, company secretary & information technology).

31. "Book-profit" means the net profit, as per the profit and loss account, computed under sections 28 to 44DA of the Income-tax Act. The remuneration paid or payable to partners, if debited to the profit and loss account, will have to be added back to the net profit [*Explanation* 3 to section 40(b)]. Refer *Examples* on page 250.

6. Subject to Para 7, as far as payment of interest to any partner is concerned, any payment in excess of interest calculated at the rate of 12% p.a. simple interest [18% p.a. simple interest, upto 31-5-2002] will be disallowed under section 40(b)(iv).

7. It may be noted that payment of remuneration to working partners and interest to partners as explained in Para 5 & 6 above should be authorised by the partnership deed[32]. If such payments are not so authorised, then such payments will be disallowed u/s. 40(b) in computing the income of the firm. Where such payments are duly authorised by and are in accordance with the terms of partnership deed, same will be allowed as deduction only for a period beginning with the date of the partnership deed and not for any earlier period.

8. Under *Explanation* 1 to section 40(b), where an individual is a partner in a representative capacity, for example, as Karta of HUF, then, the interest paid to him in his individual capacity will not be disallowed. The interest paid to the person so represented by the partner, i.e., HUF, will be disallowed subject to the provisions of section 40(b)(iv).

Under *Explanation* 2 to section 40(b), where a partner is paid interest on behalf of, or for the benefit of, any other person, such interest will not be disallowed. For example, if a partner is paid interest as a trustee or a guardian for another person, that interest will not be disallowed.

It may be noted that, the gross interest paid by the firm to partner (and not net interest i.e., interest paid by the firm to a partner as reduced by the interest received by the firm from him) will be disallowed under section 40(b), if it exceeds the prescribed limit of 12% p.a. simple interest [18% p.a. simple interest, upto 31-5-2002].

9. For notes in respect of ''Losses of firms and their partners'', refer item (vi) on page 193.

10. Any interest, salary, bonus, commission or remuneration, by whatever named called, due to, or received by, a partner from firm, will be assessed in the hands of the partner. These have been treated as income under section 2(24)(ve). Under *Explanation* 2 to section 15, the salary received by partner will not be treated as salary income and hence deduction u/s. 16 cannot be availed of. Instead, both remuneration and interest will be assessed as business/professional income in the hands of partner under section 28(v).

In the assessment of partner, his share in the total income of the firm will be exempt under clause (2A) of section 10. *Explanation* to this clause states that share of a partner in a firm shall be computed by dividing the assessed income of the firm in the same proportion as the profit sharing ratio mentioned in the partnership deed. It may be noted that assessed income and not the net profit as per books of account of the firm has to be taken into account for the purpose of exemption.

Salary, interest, etc. received by the partner from the firm will be assessable as business income in his hand under section 28(v). The partner, therefore, can claim any expenses wholly and exclusively incurred by him for the purpose of the business of the firm. It may also be noted that remuneration and/or interest to partners in excess of the prescribed ceiling limit will be disallowed in the hands of the firm u/s. 40(b) and taxed there at the flat rate. In such a case the amount of salary, remuneration, etc. and/or interest so disallowed will be reduced from the salary, remuneration, etc. and/or interest assessable in the hands of the partner [Proviso to section 28(v)]. Refer *Example* 2 on page 250.

11. Under section 187(2), change in the constitution of the firm occurs where:

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

(2) there is a change in the share of some or all the partners and all the partners continue before and after the change in shares.

Where a firm is dissolved on the death of a partner it will not be treated as a change in the constitution of the firm under section 187(2)(a) [Refer proviso to section 187(2)]. If, in such a case, the surviving partners continue the business of the firm, it will not be treated as change in constitution but succession, provided the firm was dissolved on death of partner. The result will be that two separate assessments will have to be made, treating it as two separate firms in pursuance of provisions contained in section 188. The firm's income of the period before death and after death of partner cannot be clubbed and assessed to tax. The surviving partners will have to file certified copy of deed of partnership as explained in Para 3 on page 195.

However, it may be noted that even after death of any partner, partnership can be continued if the partnership deed specifically provides that the firm shall not be dissolved on the death of any partner. In such a case, it will be treated as a change in constitution and not succession.

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32. The CBDT has clarified vide its Circular No. 739, dt. 25-3-96 [218 ITR (St.) 131] that "for the assessment years 1993-94 to 1996-97 deduction for remuneration to working partners may be allowed u/s. 40(b)(v) on the basis of the clauses of the type mentioned below incorporated in the partnership deed:

(a) The partners have agreed that the remuneration to a working partner will be the amount of remuneration allowable under the provisions of section 40(b)(v) of the Income-tax Act; or

(b) the amount of remuneration to working partner will be as may be mutually agreed upon between partners at the end of the year.".

From assessment year 1997-98 and onwards, no deduction u/s. 40(b)(v) will be admissible unless the partnership deed either specifies the amount of remuneration payable to each individual working partner or lays down the manner of quantifying such remuneration.

12. The liability of a firm to pay tax, penalty or any other sum for an assessment year can be recovered from any or all the persons, who were, during the previous year relevant to assessment year, partners and the legal representative of any such partner who is deceased (Section 188A).

(C) INTEREST PAYABLE & RECEIVABLE BY AN ASSESSEE:

Under the Income-tax Act, interest is chargeable from the assessee in respect of certain defaults. The assessee is also entitled to receive interest in certain cases. The various sections under which interest is payable or receivable in relation to assessment year 1989-90 and onwards are as per Interest Chart on page 201. It may be noted that rate of interest was 12% per annum upto 30-9-1984 and thereafter @ 15% per annum in relation to assessment year 1988-89 and earlier years. The circumstances under which liability to pay interest u/s. 234A or 234B or 234C or 234D or, the right to receive interest arises u/s. 244A, are explained hereafter.

1. Interest payable by assessee[33]:

(a) For delay or failure in furnishing the return of income under section 234A[33]:

[Section 234A[33]]

Where a return of income under section 139(1) or section 139(4) or in response to notice under section 142(1), is furnished after the 'due date' as specified in the *Explanation* to section 139(1), or is not furnished, the assessee shall be liable to pay mandatory simple interest[33]—

(a) upto 31-5-1999, at the rate of 2% for every month or part of a month,

(b) from 1-6-1999 to 31-5-2001, at the rate of 1½% for every month or part of a month,

(c) from 1-6-2001 to 7-9-2003, at the rate of 1¼% for every month or part of a month,

(d) **from 8-9-2003 and onwards, at the rate of 1% for every month or part of a month,**

from the date immediately following the due date:

(1) to the date of furnishing the return of income; or

(2) where no return has been furnished, to the date on which assessment is completed u/s. 144.

The 'due date' for furnishing the return of income and the date from which interest is leviable are as under:

From assessment year 2001-02 and onwards:

	'Due date' specified for filing the return of income	*Period for which interest is chargeable*
(a) Where the assessee is: (1) a company; or (2) a person (other than a company) whose accounts are required to be audited under Income-tax Act or under any other law; or (3) a working partner of a firm whose accounts are required to be audited under Income-tax Act or under any other law	31st October[34] of the assessment year	From 1st November[34] of the assessment year to the date of furnishing the return of income
(b) In the case of a person other than a company, referred to in the 1st proviso to section 139(1) [Refer page 185]	31st October of the assessment year	From 1st November of the assessment year to the date of furnishing the return of income
(c) In the case of any other assessee other than (a) & (b) above	31st July[34] of the assessment year	From 1st August[34] of the assessment year to the date of furnishing the return of income
(d) Where no return is furnished	From 1st November[34] or 1st August[34], as the case may be, to the date of completion of assessment u/s. 144.	

33. In cases where any income accrues or arises for any previous year due to operation of any order of court, statutory authority or of the Government passed after the close of the said previous year, interest u/s. 234A, 234B & 234C shall be reduced or waived by the Chief Commissioner of Income-tax/Director-General of Income-tax subject to the conditions, for the period and to the extent specified in Order u/s. 119(2)(a) [Vide F. No. 212/495/92-ITA. II, dt. 2-5-1994: 208 ITR (St.) 3]. Also refer Board's clarifications on reduction or waiver of interest on page 198.

34. Chart for extended 'Due date' and the 'period for which interest is chargeable u/s. 234A'—

For asstt. year	'Due date' for filing return	Extended 'Due date'	Interest chargeable u/s. 234A from	Order/Press Note No.	Refer
2001-02	31-7-2001*	31-8-2001	1-9-2001 instead of 1-8-2001	Press note dt. 27-7-01	250 ITR (St.) 84
2002-03	31-7-2002	9-8-2002†	—	220/3/2002-IT (A-II) dt. 30-7-02	—
2003-04	31-7-2003	3-10-2003	4-10-2003 instead of 1-8-2003	220/3/2003-IT (A-II) dt.1-10-03	264 ITR (St.) 10
2003-04	31-10-2003	30-11-2003§	1-12-2003 instead of 1-11-2003	220/3/2003-IT (A-II) dt.16-10-03 & 20-10-03	264 ITR (St.) 10 & 11.
2004-05	31-7-2004	31-10-2004	1-11-2004 instead of 1-8-2004	220/1/2004-IT (A-II) dt. 22-7-04	268 ITR (St.) 217.

* 'Due date' is extended only in respect of assessees having principal place of residence or business or profession situated within the juridication of Chief Commissioner of Income-tax, Orissa.

† 'Due date' for submission of the completed Bulk Returns in electronic format by the employers together with the returns of income of the eligible and willing employees, to the concerned designated Assessing Officers in the respective specified city is extended to 31-8-2002 [Order No. 220/3/2002-IT (A-II), dt. 24-7-2002].

§ ' Due date ' of filing tax audit report u/s. 44AB is extended to 30 -11-2003. Date for filing of returns in the case of partners of firms, required to file audit report u/s. 44AB, also stands extended to 30-11-2003.

EXAMPLE: For the assessment year 2004-05 Mr. A has income from proprietory business. Due date for furnishing the return of income is 31-10-2004. He files the return of income on 7-3-2005 declaring income of Rs. 1,45,000. Tax deducted @ source is Rs. 1,250. Advance tax paid is Rs. 15,100 (Rs. 6,000 on 15-9-2003 *plus* Rs. 6,000 on 15-12-2003 *plus* Rs. 3,100 on 15-3-2004). The interest payable under section 234A for delay in furnishing the return of income and under section 234C(1)(b)(ii) for deferment of advance tax together with self-assessment tax payable u/s. 140A will be as under:

Due date of furnishing the return			31-10-2004
Delay in furnishing return of income from 1-11-2004 to 6-3-2005			4 months & 6 days
Income-tax on Rs. 1,45,000			Rs. 18,000
Less: Tax deducted at source			Rs. 1,250
Assessed tax			Rs. 16,750
Less: Advance tax paid on or before 15-3-2004			Rs. 15,100
Shortfall in payment of advance tax on or before 15-3-2004			Rs. 1,650
Add: (1) Mandatory interest u/s. 234A @ 1% for every month or part of a month on Rs. 1,600 (and not Rs. 1,650[35]) i.e., @ 1% for 5 months [4 months+6 days (part of a month to be considered as a month)]	Rs. 80		
(2) Interest u/s. 234C(1)(b)(ii) @ 1% on shortfall of Rs. 1,600 (and not Rs. 1,650[35]) i.e., 1% of Rs. 1,600	Rs. 16	Rs. 96	
Self-assessment tax payable u/s. 140A including interest u/s. 234A & 234C(1)(b)(ii)		Rs. 1,746	

It may be noted that along with self-assessment tax payable u/s. 140A, the assessee is required to pay interest: (a) u/s. 234A for delay in furnishing the return of income, and/or (b) u/s. 234B/234C for defaults in payment of advance tax. In short, assessee will have to compute the interest, if any, payable u/s. 234A and/or 234B and/or 234C and pay the same along with the self-assessment tax under section 140A before filing the return of income. For the manner and method of calculating interest u/s. 234A & 234B which is payable u/s. 140A, please refer item 5(i) on page 188. Further, under section 143(1) or regular assessment, interest payable u/s. 234A(1) will be reduced by the interest, if any, paid along with self-assessment tax towards the interest chargeable u/s. 234A [Section 234A(2)].

The interest is chargeable on the net amount of tax payable under section 143(1) or on regular assessment, i.e., total tax as reduced by advance tax paid and/or any tax deducted or collected at source, but excluding any self-assessment tax paid. The additional income-tax, if any, payable under section 143(1A), if any, will not be taken into account for computing the interest [Vide *Explanation* 2 to section 234A(1)].

The interest payable for late filing of return of income cannot be waived or reduced.

Where a return of income is furnished in response to notice u/s. 148 or u/s. 153A (w.e.f. 1.6.2003), in a case where the income has been determined u/s. 143(1) or assessment has already been completed, after the expiry of time allowed under such notice, the interest at the spcified rate [Refer item 1(a) on page 197] for every month or part of a month will be chargeable from the day immediately following the expiry of time allowed under such notice to the date of furnishing the return. However, if the return is not furnished, then, such interest will be charged upto the date of completion of reassessment or recomputation u/s. 147/or w.e.f. 1-6-2003, reassessment u/s. 153A. Tax for this purpose will be the tax determined on reassessment or recomputation and reduced by the tax determined u/s. 143(1) or on the basis of the earlier regular assessment u/s.143(3).

If the amount of tax on which interest has been charged for late filing of return of income is increased or reduced as a result of any rectification, appeal, revision or settlement, the interest will also be increased or reduced accordingly.

BOARD'S CLARIFICATIONS ON REDUCTION OR WAIVER OF INTEREST:

In relation to assessment year 1989-90 and subsequent years, interest u/s. 234A, 234B & 234C may be reduced or waived by the Chief Commissioner (CC)/Director-General of Income-tax(DG), vide order F.No. 400/234/95-IT(B), dt. 23-5-1996 [Refer 225 ITR(St.)101] read with modification dt. 30-1-1997, in the following cases-

(1) Where the books of accounts and other incrimating documents of the assessee have been seized u/s. 132 and for reasons beyond his control, he has been unable to furnish the return of income for the previous year during which the action u/s. 132 has taken place, within the time specified and CC/DG is satisfied that the delay in furnishing such return of income cannot reasonably be attributed to the assessee.

(2) Where cash seized u/s. 132 is not allowed to be utilised for payment of advance tax instalment(s) as they fall due after the seizure of cash and the assessee has not paid fully/partly advance tax, and the CC/DG is satisfied that the assessee is unable to pay the advance tax.

(3) Where any income chargeable to income-tax under any head of income, other than "capital gains", is received or accrues after due date of payment of instalment(s) of advance tax which was neither anticipated nor was in the contemplation of the assessee and advance tax on such income is paid in the remaining instalment(s) and the CC/DG is satisfied that it is a fit case for reduction or waiver of interest chargeable u/s. 234C.

(4) Where any income which was not chargeable to income-tax on the basis of any order passed by the jurisdictional High Court, and as a result, assessee did not pay income-tax in relation to such income in any previous year and subsequently, in consequence of any retrospective amendment of law or decision of the Supreme Court, in any assessment/re-assessment proceedings the advance tax paid by the assessee during the financial year immediately preceding the relevant assessment year is found to be less than the amount of advance tax payable on his current income, the assessee is chargeable to interest u/s. 234B or 234C and the CC/DG is satisfied that this is a fit case for reduction or waiver of such interest.

(5) Where a return of income could not be filed by the assessee due to unavoidable circumstances and such return is filed voluntarily by the assessee or his legal heirs without detection by the Assessing Officer.

35. For rounding off of the amount on which interest is to be calculated, refer Rule 119A on page 201.

(b) Interest chargeable for defaults in payment of advance tax:

[Sections 234B and 234C[36]]

Interest in respect of: (1) defaults in payment of advance tax will be levied u/s. 234B at the specified rate for every month or part of a month [For further details, refer sub-item (i) of item (7) on pp. 289-290], and (2) deferment of advance tax will be levied u/s. 234C at the specified rate per month for a period of 3 months [For further details, refer sub-item (ii) of item (7) on pp. 291-292].

(c) Interest on excess refund:

[Section 234D]

Section 234D provides that, w.e.f. 1-6-2003, where the refund granted to the assessee u/s. 143(1) is found to be not due on regular assessment or the amount refunded u/s. 143(1) exceeds the amount refundable on regular assessment, the assessee shall be liable to pay simple interest at the rate of ½%, from 8-9-2003 and onwards [two-third per cent., upto 7-9-2003] on the whole or the excess amount so refunded, for every month or part of a month from the date of grant of refund to the date of such regular assessment. If as a result of an order u/s. 154, 155, 250, 254, 260, 262, 263 or 264 or an order of the Settlement Commission u/s. 245D(4), the refund granted, if any, u/s. 143(1) is found to be correctly allowed, either in whole or in part, then, the interest chargeable u/s. 234D (1) shall be reduced accordingly. The assessment made for the first time u/s. 147 or 153A, shall be treated as a regular assessment for the purpose of section 234D.

(d) Interest payable by assessees on delayed payment of tax other than advance tax:

[Section 220(2)]

If an assessee fails to pay any tax, penalty, etc., within 30 days from the date of receipt of the notice of demand issued under section 156, he shall be liable to pay interest on the outstanding demands at the rate of 1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, from 1-4-1989 to 31-5-2001] for every month or part of a month for the period of default after 31-3-1989[37].

Illustration: An assessee was served with a notice of demand for Rs. 64,000 on 1-9-2003. He was allowed to pay the tax in four equal instalments of Rs. 16,000 each on 1-10-2003,1-11-2003, 1-12-2003 & 1-1-2004 and pays accordingly. What will be the interest payable by him u/s. 220(2) on delayed payments?

Notice of demand served on		1-9-2003
Demand payable within 30 days, i.e., by		1-10-2003
Demand		Rs. 64,000
Less: Paid on 1-10-2003		Rs. 16,000
		Rs. 48,000
(i) Interest on Rs. 48,000 for one month from 1-10-2003 to 31-10-2003@ 1% per month		Rs. 480
(ii) Interest on Rs. 32,000 (Rs. 48,000 *less* Rs. 16,000 paid on 1-11-2003) for one month from 1-11-2003 to 30-11-2003 @ 1% per month.		Rs. 320
(iii) Interest on Rs. 16,000 (Rs. 32,000 *less* Rs. 16,000 paid on 1-12-2003) for one month from 1-12-2003 to 31-12-2003 @ 1% per month		Rs. 160
	Total interest payable u/s. 220(2)	Rs. 960

Notes: 1. Interest under section 220(2) is payable on delayed payments irrespective of whether extension of time for making the payment has been granted or not.

2. Interest charged under section 220(2) is to be reduced in consequence of any reduction in tax as a result of any appeal, rectification or revision.

3. Interest under section 220(2) is not chargeable in respect of delayed payments of advance tax. For default in payment of advance tax, the assessee will render himself liable to penalty under section 221.

4. In addition to interest under section 220(2), an assessee will also be liable to penalty under section 221 for default without good and sufficient reasons in making the payment of tax within the time allowed. The penalty under section 221 can be imposed from time to time to the extent of the tax (including advance tax) in arrear. The penalty under section 221 would be imposable even if the tax has been paid after the default in payment has occurred.

   However, the CBDT have clarified [Vide Circular No. 530, dt. 6-3-1989: 176 ITR (St.) 240 read with Circular No. 589, dt. 16-1-1991: 187 ITR (St.) 79] that, on an application made by an assessee, the Assessing Officer will exercise his discretion u/s. 220(6) so as to treat the assessee as not being in default in respect of non-payment of tax on the amounts disputed in first appeal pending before the Deputy Commissioner (Appeals)/Commissioner (Appeals), subject to the conditions mentioned in the said circular.

5. The Chief Commissioner or Commissioner may reduce or waive the interest paid or payable u/s. 220(2), if the following conditions are fulfilled:

36. Refer footnote No. 33 on page 197.

37. The rate of interest is 12% p.a. for the period of default upto 30-9-1984 and @ 15% p.a. for the period of default from 1-10-1984 to 31-3-1989.

(i) payment has caused or would cause genuine hardship to the assessee;
(ii) the non-payment of demand u/s. 156 was due to circumstances beyond the control of the assessee; and
(iii) the assessee has co-operated with the department in assessment and recovery proceedings.

6. Where an assessment order is cancelled u/s. 146 or cancelled/set aside by an appellate/revisional authority and cancellation/setting aside becomes final, then, no interest u/s. 220(2) can be charged pursuant to the original demand notice but can be charged only after the expiry of 35 days or 30 days, as the case may be, from the date of service of demand notice pursuant to such fresh assessment order [Vide Circular No. 334, dt. 3-4-1982: 135 ITR (St.) 10].

2. Interest payable to assessee: [Section 244A]

Interest on excess payment of advance tax, tax deducted or collected at source and any other tax or penalty becoming refundable will be paid u/s. 244A at the rate of one-half per cent. [one and one-half per cent. (upto 30-9-1991)/one per cent. (from 1-10-1991 to 31-5-2001)/three-fourth per cent. (from 1-6-2001 to 31-5-2002)/ two-third per cent. from 1-6-2002 to 7-9-2003)], for every month or part of a month.

The period for which the interest is payable will be:

(a) for advance tax and tax deducted or collected at source, from 1st April of the relevant assessment year to the date on which the refund is granted [Section 244A(1)(a)]. However, no interest will be payable, if the amount of refund is less than 10% of the tax determined u/s. 143(1) or on regular assessment [Proviso to section 244A(1)(a)] (Refer *Example* 1 given hereafter); and

(b) for all other taxes/penalties, from date of payment of tax/penalty to the date on which the refund is granted [Section 244A(1)(b)] (Refer *Example* 2 given hereafter).

Delay in granting refund, if any, attributable to the assessee will be excluded from the period for which interest is payable [Vide section 244A(2). Refer Para 11.4 of Circular No. 549, dt. 31-10-1989: 182 ITR (St.) 49].

If the amount on which interest was payable is increased or reduced due to regular assessment orders, reassessment, rectification, appeals, revision or Settlement Commission's orders, interest also will be increased or reduced.

It may be noted that interest allowed u/s. 244A is to be treated as income of the previous year in which it is allowed and is, therefore, required to be declared in the return of income for the corresponding assessment year.

EXAMPLE: 1.

(a)	Due date for filing the return of income for assessment year 2004-05	31-10-2004
(b)	Date of filing the return of income for assessment year 2004-05[38]	28-10-2004
(c)	Advance tax paid on specified due dates and tax deducted @ source	Rs. 60,000
(d)	Tax due as per return of income for assessment year 2004-05.	Rs. 48,000
(e)	Refund due (Rs. 60,000 *less* Rs. 48,000[39])	Rs.[39] 12,000
(f)	Date of grant of actual refund u/s. 143 (1)	5-2-2005
(g)	Interest payable u/s. 244A will be at the rate of ½% per month for 11 months[38] [10 months & 5 days (from 1-4-2004 to 5-2-2005)] on Rs. 12,000	Rs. 660

EXAMPLE: 2.

(a)	Tax due as per return of income for assessment year 2003-04 filed on due date i.e., on 31-7-2003 is Rs. 60,000. The said tax is paid as under:		
	(1) Advance tax paid on specified due dates during the financial year ending on 31-3-2003	Rs. 58,000	
	(2) Self-assessment tax paid on 31-7-2003	Rs. 2,000	Rs. 60,000
(b)	Tax determined on completion of regular assessment u/s. 143(3) on 30-11-2004		Rs. 80,000
(c)	Regular demand [Rs. 80,000 (Refer b) *less* Rs. 60,000 (Refer a)]		Rs. 20,000
(d)	Regular demand Rs. 20,000 paid on		1-1-2005
(e)	Tax determined as a result of appellate order u/s. 250 on 31-5-2005		Rs. 64,000
(f)	Refund due to the assessee as a result of appeal [Rs. 80,000 (Rs. 60,000 *plus* Rs. 20,000) *less* Rs. 64,000]		Rs. 16,000
(g)	Date of grant of actual refund		30-9-2005
(h)	Interest payable to assessee at the rate of ½% per month for 9 months i.e., from 1-1-2005 (being date of payment of regular demand) to 30-9-2005 (being date of grant of actual refund) on Rs. 16,000		Rs. 720

Note: As the refund arises out of regular demand paid on 1-1-2005, interest is payable from that date [Vide section 244A(1)(b)].

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38. In the above *Example* 1, if there was 2 months' delay in filing the return of income (i.e., filed on 31-12-2004) then the period of delay of 2 months attributable to the assessee will be excluded from the period for which interest is payable [Refer section 244A(2)]. Interest payable at the rate of ½% p.m. for 9 months [11 months *less* 2 months' delay in filing the return] on Rs. 12,000 will be Rs. 540.

39. If the refund due had been less than Rs. 4,800 [i.e., less than 10% of the tax determined u/s. 143(1)], no interest will be payable to the assessee on the refund [Vide proviso to section 244A(1)(a)].

3. Rounding off of month and amount while calculating the interest payable by the assessee or the interest payable by the Central Government:

Under Rule 119A of the Income-tax Rules, 1962, in calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Income-tax Act,—

(A) where the interest is to be calculated on annual basis, the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;

(B) where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month and the interest shall be so calculated [Refer *Example* on page 198];

(C) the amount of tax, penalty or other sum in respect of which interest is to be calculated shall be rounded off to the nearest multiple of Rs. 100 and for this purpose any fraction of Rs. 100 shall be ignored and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.

CHART FOR INTEREST PAYABLE TO, RECEIVABLE BY, AN ASSESSEE:
[Assessment year 1989-90 and onwards]

Section of the Income-tax Act	*Circumstances under which interest is payable or receivable by an assessee*	*Rate of interest and period for which interest is payable/receivable*	*Amount on which interest is to be calculated*
		(A) INTEREST PAYABLE BY THE ASSESSEE:	
115P	W.e.f. 1-6-1997, failure to pay the whole or any part of the tax on distributed profits (i.e., dividends) referred to in section 115-O(1)	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, from 1-6-2000 to 31-5-2001; 2%, upto 31-5-2000], for every month or part thereof from the due date on which such tax was payable u/s. 115-O(3) to the date on which it is actually paid	Amount payable as tax on distributed profits (i.e., dividends).
115S	W.e.f. 1-6-1999, failure to pay the whole or any part of tax on income distributed [i.e., income distributed by Unit Trust of India[40]/Mutual Fund] referred to in section 115R(1)/(2)	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, from 1-6-2000 to 31-5-2001; 2%, upto 31-5-2000], for every month or part thereof from the due date on which such tax was payable u/s. 115R(3) to the date on which it is actually paid	Amount payable as tax on income distributed (i.e., income distributed by Unit Trust of India[40]/Mutual Fund).
201(1A)	Failure to deduct the whole or any part of the tax, or delay in remitting, tax deducted at source by the person responsible for deducting tax	12% p.a. [15% p.a., from 1-6-2001 to 7-9-2003; 18% p.a., from 1-6-1999 to 31-5-2001; 15% p.a., upto 31-5-1999], from the date on which tax was deductible to the date on which it is actually paid	Amount of tax deductible or deducted.
206C(7)	W.e.f. 1-6-1988, failure to collect, or delay in remitting, tax collected by the seller responsible for collecting tax	1% [1¼%, from 1-6-2001 to 7-9-2003; 2%, upto 31-5-2001] p.m. or part thereof from the date on which such tax was collectable to the date on which it is actually paid	Amount of tax collectible.
220 (2)	Failure or delay in payment of any amount, other than advance tax, specified in notice of demand u/s. 156	(1) 15% p.a. upto 31-3-1989, and (2) 1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, from 1-4-1989 to 31-5-2001] for every month or part of a month, from 31st day to the date of payment	Amount specified in the demand notice issued u/s. 156 [Refer *Illustration* on page 199].

40. W.e.f. 1-4-2003, for the words "Unit Trust of India", read "specified company" referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

CHART FOR INTEREST PAYABLE TO, RECEIVABLE BY, AN ASSESSEE *(Contd.)*

Section of the Income-tax Act	*Circumstances under which interest is payable or receivable by an assessee*	*Rate of interest and period for which interest is payable/receivable*	*Amount on which interest is to be calculated*
234A[41]	For delay or failure in furnishing return of income u/s. 139(1) or 139(4) or 142(1)	1% [1¼% (from 1-6-2001 to 7-9-2003)/ 1½% (from 1-6-1999 to 31-5-2001)/2% (upto 31-5-1999)] for every month or part of a month from the date immediately following the due date specified u/s. 139(1) to the date of furnishing the return of income and where the return is not furnished, to the date of completion of assessment u/s. 144	Amount of tax on total income determined u/s. 143(1) or on regular assessment and as reduced by advance tax paid and/or tax deducted or collected at source. Interest is not payable on additional income-tax, if any, determined u/s. 143(1A) [Refer *Example* on page 198].
234B[41]	Failure to pay advance tax or advance tax paid is less than 90% of the assessed tax[42]	1% [1¼% (from 1-6-2001 to 7-9-2003)/ 1½% (from 1-6-1999 to 31-5-2001)/2% (upto 31-5-1999)] for every month or part of the month from 1st April of the assessment year to the date of determination of total income u/s. 143(1) or regular assessment	Amount of difference between assessed tax[42] and the advance tax paid, if any. Interest is not payable on additional income-tax, if any, determined u/s. 143(1A) [Refer *Examples* to sub-item (i) of item (7) on page 290].
	In relation to assessment year 1995-96 & onwards:		
	(i.e., advance tax payable during the financial year 1994-95 and subsequent years):		
234C[41]	(1) *IN THE CASE OF AN ASSESSEE BEING AN ASSESSEE OTHER THAN A COMPANY:*		
	(a) Deferment or shortfall in payment of advance tax on 15th September and/or 15th December [leviable even in cases where an assessee is liable to pay advance tax u/s. 208 and has failed to pay such tax]	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, upto 31-5-2001] per month for a period of 3 months	Amount of difference between: (1) 30% of the "tax due on the returned income[43]" and advance tax paid or payable on or before 15th September, (2) 60% of the "tax due on the returned income[43]" and advance tax paid or payable on or before 15th December [Refer *Illustration* to sub-item (ii) of item (7) on page 291].
	(b) Shortfall in payment of advance tax on or before 15th March [leviable even in cases where an assessee is liable to pay advance tax u/s. 208 and has failed to pay such tax]	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, upto 31-5-2001]	Amount of shortfall i.e., amount of difference between "tax due on the returned income[43]" and advance tax paid or payable on or before 15th March [Refer *Illustration* to sub-item (ii) of item (7) on page 291].
	(2) *IN THE CASE OF AN ASSESSEE BEING A COMPANY:*		
	(a) Deferment or shortfall in payment of advance tax on 15th June and/or 15th September and/or 15th December [leviable even in cases where company is liable to pay advance tax u/s. 208 and has failed to pay such tax]	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, upto 31-5-2001] per month for a period of 3 months	Amount of difference between: (1) 15%[44] of the "tax due on the returned income[43]" and advance tax paid or payable on or before 15th June, (2) 45%[44] of the "tax due on the returned income[43]" and advance tax paid or payable on or before 15th September, (3) 75% of the "tax due on the returned income[43]" and advance tax paid or payable on or before 15th December.
	(b) Shortfall in payment of advance tax on or before 15th March [leviable even in cases where company is liable to pay advance tax u/s. 208 and has failed to pay such tax]	1% [1¼%, from 1-6-2001 to 7-9-2003; 1½%, upto 31-5-2001]	Amount of shortfall i.e., amount of difference between "tax due on the returned income[43]" and advance tax paid or payable on or before 15th March.

41. Interest payable u/s. 234A, 234B, and 234C has to be paid alongwith self-assessment tax payable u/s. 140A.

42. "assessed tax" means, the tax on the total income determined u/s. 143(1) or on regular assessment as reduced by the amount of tax deducted and/or collected at source on any income, which is subject to such deduction and/or collection under Chapter XVII, and which is taken into account in computing such total income.

43. "tax due on the returned income" means tax chargeable on the total income declared in the return and reduced by the amount of tax deductible and/or collectible at source on any income which is taken into account in computing such total income.

44. If the advance tax paid by the company on its current income on or before the 15th June or the 15th September, is not less than 12% (as against 15%) or, as the case may be, 36% (as against 45%) of the "tax due on the returned income[43]", then, the company shall not be liable to pay any interest u/s. 234C(1)(a)(i) on the amount of shortfall on those dates [vide proviso to section 234C(1)(a)].

CHART FOR INTEREST PAYABLE TO, RECEIVABLE BY, AN ASSESSEE *(Contd.):*

Section of the Income-tax Act	*Circumstances under which interest is payable or receivable by an assessee*	*Rate of interest and period for which interest is payable/receivable*	*Amount on which interest is to be calculated*
234D	W.e.f. 1-6-2003, where the refund granted to the assessee u/s. 143(1) is found to be not due on regular assessment or the amount refunded u/s. 143(1) exceeds the amount refundable on regular assessment	One-half per cent. [two-third per cent., from 1-6-2003 to 7-9-2003] for every month or part of a month from the date of grant of refund to the date of such regular assessment	On the whole or the excess amount so refunded.
	(B) INTEREST RECEIVABLE BY THE ASSESSEE:		
244A[45]	Refunds arising in respect of:		
	(1) tax collected and/or deducted at source or on excess payment of advance tax	One-half per cent. [two-third per cent., from 1-6-2002 to 7-9-2003; three-fourth per cent., from 1-6-2001 to 31-5-2002; 1%, from 1-10-1991 to 31-5-2001; 1½%, upto 30-9-91] for every month or part of a month from 1st April of the assessment year to the date on which the refund is granted	Amount of refund due provided amount of refund is not less than 10% of the tax determined u/s. 143(1) or on regular assessment [Refer *Example* 1 on page 200].
	(2) in any other case of refund arising on appeal, refund withheld by the Assessing Officer[45], etc.	One-half per cent. [two-third per cent., from 1-6-2002 to 7-9-2003; three-fourth per cent., from 1-6-2001 to 31-5-2002; 1%, from 1-10-1991 to 31-5-2001; 1½%, upto 30-9-1991] for every month or part of a month from the date or dates of payment of tax or penalty to the date on which the refund is granted	Amount of refund due [Refer *Example* 2 on page 200].

NOTES: 1. If the amount on which interest is charged u/s. 220(2) is reduced in appeal, rectification or revision or order of the Settlement Commission, the interest will be accordingly reduced.

2. The interest chargeable u/s. 234A & 234B and payable u/s. 244A will be increased or reduced if the assessed tax is increased or reduced in appeal, rectification, revision or order of the Settlement Commission.

3. If as a result of an order u/s. 154, 155, 250, 254, 260, 262, 263 or 264 or an order of the Settlement Commission u/s. 245D(4), the refund granted u/s. 143(1) is found to be correctly allowed, either in full or part, then, the interest charged u/s. 234D(1) shall be reduced accordingly [Section 234D(2)].

(D) PENALTIES LEVIABLE UNDER THE INCOME-TAX ACT, 1961:

Applicable from assessment year 1989-90 and onwards:

Section of the Income-tax Act	*Nature of default*	*Penalty leviable*
221(1)[46]	Failure to pay tax demanded or self-assessment tax u/s. 140A and interest payable under section 220(2)	The penalty can be imposed from time to time to the extent of the tax in arrears. The penalty is imposable even if the tax has been paid after the default in payment has occurred.
271B[47]	Failure to get the accounts audited u/s. 44AB or, — (a) w.e.f. 1-7-1995, failure to furnish a report of such audit as required u/s. 44AB (i.e., by specified date), (b) upto 30-6-1995, failure to obtain a report u/s. 44AB or furnish the said report along with the return of income filed u/s. 139(1) or 142(1) (i)	½% of the total sales, turnover or gross receipts in business or of gross receipts in profession, OR a sum of Rs. 1,00,000, whichever is less.
271C[47]	W.e.f. 1-4-1989, failure to deduct the whole or any part of tax @ source as required under Chapter XVII-B, or	An amount equal to tax that should have been deducted.
	W.e.f. 1-6-1997, failure to pay the whole or any part of tax as required u/s. 115-O(2) or 2nd proviso to section 194B	An amount equal to tax that should have been paid.
271D[47]	Failure to comply with provisions of section 269SS (i.e., taking or accepting certain loans and deposits)	A sum equal to the amount of loan or deposit taken or accepted.
271E[47]	Failure to comply with provisions of section 269T (i.e., repayment of loans (w.e.f. 1-6-2003)/deposits)	A sum equal to the amount of loan (w.e.f. 1-6-2003)/deposit so repaid.

45. Refund due to the assessee cannot be withheld by the Assessing Officer (AO) on or after 1-6-2001 as section 241 which empowered the AO to withhold the refund in certain cases has been omitted w.e.f. 1-6-2001.

46. In respect of defaults u/s. 221(1), no penalty is imposable on the assessee, if he proves that the default was for good and sufficient reasons [2nd proviso to section 221(1)].

47. In respect of the defaults under this section/sub-section, no penalty is imposable on the person/assessee, if he proves that there was reasonable cause for the said default [Section 273B].

Penalties leviable under the Income-tax Act, 1961 *(Contd.)*

Section of the Income-tax Act	*Nature of default*	*Penalty leviable*	
271F[48]/[48a]	W.e.f. 1-4-1999 (assessment year 1999-2000 and onwards), failure to furnish return of income *before the end of the relevant assessment year,* in the case of persons referred to in section 139(1)	Rs. 1,000/Rs. 5,000 (for defaults committed on or after 1-6-2001).	
	W.e.f. 1-6-2002, failure to furnish return of income *before the end of the relevant assessment year,* in the case of persons referred to in 1st proviso to section 139(1)	Rs. 5,000.	
	W.e.f. 1-4-1997 to 31-5-2002, failure to furnish return of income, on or before due date, in the case of persons referred to in 1st proviso to section 139(1)	Rs. 500/Rs. 5,000 (for defaults committed on or after 1-6-2001).	
272AA[48]	Failure to comply with the provisions of section 133B	A sum which may extend to Rs. 1,000.	
272B[48]/[48a]	W.e.f. 1-6-2002, failure to comply with the provisions of section 139A (i.e., applying for PAN/not quoting PAN in documents specified in section 139A(5)(c)/not intimating PAN as required u/s. 139A(5A)/quoting or intimating PAN which is false	Rs. 10,000.	
272BB[48]	Failure to comply with the provisions of section 203A	A sum which may extend to Rs. 5,000. Fixed amount of Rs. 10,000 (for defaults committed on or after 1-6-2001).	
		MINIMUM PENALTY	*MAXIMUM PENALTY*
271(1)(b)[48]	Failure to comply with a notice u/s. 142(1) or 143(2) or failure to comply with directions issued u/s. 142(2A)	Rs. 1,000 for each such failure	Rs. 25,000 for each such failure.
		For defaults committed on or after 1-6-2001, fixed amount of Rs. 10,000 for each such failure.	
271(1)(c)	For concealing the particulars of income or furnishing inaccurate particulars of such income	100% of the amount of tax sought to be evaded	300% of the amount of tax sought to be evaded.
271A[48]	Failure to keep, maintain or retain books of account, documents, etc., as required under section 44AA	Rs. 2,000	Rs. 1,00,000.
		For defaults committed on or after 1-6-2001, fixed amount of Rs. 25,000.	
272A(1)(*a*) & (1)(*b*)	Failure to answer questions, or sign statements asked or made in course of any proceeding under the Act	Rs. 500 for each default or failure	Rs. 10,000 for each default or failure.
272A(1)(*c*)[48]	Failure to comply with notice u/s. 131(1); i.e., to attend and give evidence, and/or produce books of account or documents		
272A(1)(*d*)[48]	Upto 31-5-2002, failure to comply with the provisions of section 139A i.e., applying for PAN [w.e.f. 1-6-2002, refer section 272B above]	For defaults committed on or after 1-6-2001, fixed amount of Rs. 10,000 for each such default or failure.	
272A(2)[48]/[48a]	Failure — (*a*) to comply with notice u/s. 94(6); (*b*) to give notice of discontinuance of business or profession u/s. 176(3); (*c*) to furnish in due time returns/statements/particulars u/s. 133, 206, 206A[49], 206B[49], 206C[50] or 285B; (*d*) to allow inspection of registers, etc. u/s. 134; (*e*) to file return u/s. 139(4A) & w.e.f. 1-4-2003, u/s. 139(4C) (*f*) to deliver in due time a copy of declaration mentioned in section 197A; (*g*) to furnish a certificate u/s. 203 or 206C[50] (*h*) to deduct and pay tax as required u/s. 226(2) (*i*) to furnish a statement as required u/s. 192(2C) [w.e.f. 1-4-2002] (*j*) to deliver or cause to be delivered in due time a copy of declaration referred to in section 206C(1A) [w.e.f. 8-9-2003]	Rs. 100[51] for every day during which the failure continues	[Applicable upto 31-5-1999] Rs. 200[51] for every day during which the failure continues.

NOTES:

1. W.e.f. 1-10-1998, Income-tax Officer can levy penalty upto Rs. 10,000 and; the Assistant Commissioner or Deputy Commissioner upto Rs. 20,000. If penalty leviable exceeds these limits, prior approval of the Joint Commissioner is necessary [Section 274(2)].

2. W.e.f. 1-10-1998, penalties u/s. 271C, 271D & 271E shall be levied by the Joint Commissioner [Sections 271C(2), 271D(2) & 271E(2)].

3. Where additional income-tax has been charged on the adjustments made u/s. 143(1)(a), no penalty is leviable u/s. 271(1)(c) *[Explanation* 6 to section 271(1)].

48. Refer footnote No. 47 on page 203.

48a. For the notes on new section 271FA inserted and amendment of section 272B(2) & 272A(2) by the Finance (No. 2) Act, 2004, refer para 11.3, 11.5 & 11.4 on page 341.

49. In clause (c), figures and letters "206A" and "206B" omitted w.e.f. 1-10-1996 consequent to omission of sections 206A and 206B.

50. In clauses (c) and (g), figures and letter "206C" inserted w.e.f. 1-10-1991.

51. W.e.f. 1-10-1991, the quantum of penalty for non-filing of prescribed returns u/s. 206 and 206C is restricted to the maximum amount of tax deductible or collectible at source. And also, w.e.f. 1-4-1999, the quantum of penalty for non-filing of a declaration mentioned in section 197A; a certificate as required by section 203 is to be restricted to the maximum amount of tax deductible or collectible at source.

(E) WAIVER OR REDUCTION OF PENALTY:

[W.e.f. 1-6-1993]

Under section 273A, the Commissioner has the power to reduce or waive penalties imposed or imposable u/s. 271(1)(c) for concealment of income.

This power of waiver or reduction will be exercised by the Commissioner if he is satisfied that the following conditions have been fulfilled:

(1) In cases where penalty is imposed or imposable u/s. 271(1)(c) for concealment of particulars of income, the assessee has voluntarily and in good faith made full and true disclosure of such particulars prior to their detection by the Assessing Officer.

(2) The disclosure will be treated as full and true if the additions made to the income returned are not of such a nature as to attract penalty for concealment of income u/s. 271(1)(c).

(3) The assessee has co-operated in any enquiry relating to the assessment of his income for the relevant assessment year.

(4) The assessee has paid or made satisfactory arrangements for the payment of the tax or interest on the basis of the assessment order passed for the relevant assessment year.

Main features:

(1) In cases where the aggregate of concealed income u/s. 271(1)(c) exceeds Rs. 5 lakhs, in relation to one or more assessment years, the Commissioner is not empowered to reduce or waive penalty except with the previous approval of the Chief Commissioner or Director-General, as the case may be.

(2) An order of reduction or waiver of penalty u/s. 273A(1) may be passed by the Commissioner either on his own motion or on an application made by the assessee.

(3) An order of reduction or waiver can be passed even after the penalty has been imposed.

(4) Sub-section (3) of section 273A provides that if once an order of waiver or reduction has been passed u/s. 273A(1) in the case of an assessee, irrespective of whether such order relates to one or more assessment years, such assessee shall not again be entitled to a similar relief on any subsequent occasion.

(5) Sub-section (4) of section 273A provides that on an application made by the assessee, the Commissioner may, waive any penalty payable by an assessee under the Income-tax Act or stay or compound any proceeding for its recovery, if he is satisfied that:

(i) it would otherwise cause genuine hardship to the assessee, and;

(ii) the assessee has co-operated with the department.

(F) TIME LIMIT FOR COMPLETION OF PENALTY PROCEEDINGS INITIATED ON OR AFTER 1-10-1998:

[Section 275]

Penalty proceedings have to be completed before the end of the financial year in which the proceedings, in the course of which action for imposition of penalty is initiated, are completed, or within six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

But where the relevant order is the subject matter of appeal before the Commissioner (Appeals) or the Appellate Tribunal, penalty proceedings have to be completed before the end of the financial year in which the proceedings in the course of which action for imposition of penalty is initiated, or within six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later.

W.e.f. 1-6-2003, where the assessment or other order is the subject matter of an appeal before the Commissioner (Appeals) and the Commissioner (Appeals) passes appellate order on or after 1-6-2003, the extended time limit will be one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Chief Commissioner or Commissioner.

If the relevant assessment or other order is the subject matter of revision u/s. 263 or, w.e.f. 1-6-2003, u/s. 264, the penalty proceedings have to be completed within six months from the end of the month in which such order of revision is passed.

EXCLUSIONS FROM TOTAL INCOME

Wholly exempt income:

Assessment years: 2004-05 & 2005-06:

The following is a summary of income which are wholly exempt from income-tax as specified in sections 10, 10A, 10B & 10BA of the Income-tax Act, 1961 in relation to assessment years 2004-05 & 2005-06. Text of sections/ clauses may be referred for claiming any of these exemptions.

Para No.	*Section*	*Nature of exemption*
		1. SALARY:
1.1	10(5)	Value of travel concession in India [For details, refer item (c) on page 92].
1.2	10(6)(ii)	Remuneration received by foreign diplomats/consuls and their staff (not being citizen of India), subject to conditions.
1.3	10(6)(vi)	Remuneration received by non-Indian citizen as employee of a foreign enterprise for services rendered in India, subject to conditions.
1.4	10(6)(viii)	Salary received by a non-resident, who is not a citizen of India, for services rendered in connection with his employment on a foreign ship subject to condition that his total stay in India does not exceed 90 days in the previous year.
1.5	10(6)(xi)	Remuneration received by an Individual who is not a citizen of India as an employee of the Government of foreign State during his stay in India in connection with his training in any establishment/office/undertaking owned by the Government, etc., as specified.
1.6	10(7)	Allowances or perquisites paid or allowed as such outside India by the Government to its employee who is a citizen of India for rendering service outside India.
1.7	10(8)	Foreign income and remuneration received by an individual who is assigned to duties in India from Government of a foreign State for services rendered in connection with co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State.
1.8	10(8A)	Foreign income and remuneration or fee received by a consultant, being an individual, who is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India, or any other person, being a non-resident, subject to conditions.
1.9	10(8B)	Foreign income and remuneration received by an individual who is an employee of the consultant referred to in section 10(8A) and is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India, subject to condition.
1.10	10(9)	Refer Para 6B.7 on page 209.
1.11	10(10)	Gratuity received by employees on retirement, termination of services, etc. [For details, refer page 72].
1.12	10(10A)	Commuted value of pension received by an employee from Government/private employer, subject to conditions. Commuted value of pension received from a fund referred to in section 10(23AAB).
1.13	10(10AA)	Amount received by way of encashment of unutilised earned leave by retiring employees [For details, refer page 77].
1.14	10(10B)	Retrenchment compensation received by an employee under the Industrial Disputes Act, 1947, or under any other Act or rules, award or contract of service, etc. [For details, refer page 76].
1.15	10(10C)	Amount received or receivable (i.e., in instalment) by employees under voluntary retirement schemes of a company, a public sector company, Central Government or a State Government, etc./voluntary separation schemes of a public sector company [For details, refer page 76].
1.16	10(10CC)	Tax paid by an employer, at his option, on non-monetary perquisite provided to an employee within the meaning of section 17(2), is not a perquisite [For details, refer item 3 on page 88].
1.17	10(11)	Amount received from a provident fund to which the Provident Funds Act, 1925 applies or from Public Provident Fund Account.
1.18	10(12)	Accumulated balance due and payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule.
1.19	10(13)	Amount received from an approved superannuation fund, subject to conditions [For details, refer page 77].
1.20	10(13A)	House rent allowance from the employer [For details, refer page 90].
1.21	10(14)	Prescribed allowances to employees [For details, refer page 70].
		2. HOUSE PROPERTY:
2.1	10(19A)	Annual value of any one palace in the occupation of ex-ruler, subject to conditions.
2.2	10(24)	Income from house property and/or other sources of specified Trade Unions, subject to conditions.

Para No.	*Section*	*Nature of exemption*
		3. BUSINESS/PROFESSION:
3.1	10(2A)	Share income of a partner from firm [For details, refer Para 10 on page 196].
3.2	10(6A)	Tax liability on income by way of royalty or technical fees by a foreign company paid by the Government or the Indian concern through an agreement executed after 31-3-1976 but before 1-6-2002, subject to conditions [See Para 3.5 hereafter].
3.3	10(6B)	Tax liability on specified income of non-resident (not being a company) or foreign company paid by the Government or the Indian concern through an agreement executed/approved before 1-6-2002 by the Central Government, subject to conditions.
3.4	10(6BB)[1]	Tax liability on lease rent of aircraft or aircraft engine from the Government of a foreign State or a foreign enterprise by an Indian company engaged in the business of operation of aircraft under an approved agreement entered into after 31-3-1997 but before 1-4-1999 and tax on such income is payable by such Indian company, the tax so paid [See also Para 3.6 hereafter].
3.5	10(6C)	Income by way of royalty or fees for technical services received under an agreement with Central Government by notified foreign company for providing such services in India and abroad in connection with security of India.
3.6	10(15A)[1]	Lease rent received for leasing aircraft or aircraft engine by the Government of a foreign State or a foreign enterprise, from an Indian company engaged in the business of operation of aircraft, under an agreement not being an agreement entered into between 1-4-1997 and 31-3-1999 and approved by the Central Government [See also Para 3.4 above].
3.7	10(30)	Subsidy received from or through Tea Board by grower and manufacturer of tea in India under notified scheme, subject to condition.
3.8	10(31)	Subsidy received from or through Rubber Board/Coffee Board/Spices Board or any other notified Board by grower and manufacturer of rubber, coffee, cardamom or notified commodity in India under notified scheme, subject to condition.
3.9	10A	Income of industrial undertaking from the export of articles or things or computer software, located in free trade zones or in any electronic hardware technology park/software technology park or in special economic zone, for the period of 10 consecutive assessment years but not beyond assessment year 2009-10[2], subject to conditions.
3.10	10B	Income of hundred per cent. export-oriented undertaking from export of articles or things or computer software for the period of 10 consecutive assessment years but not beyond assessment year 2009-10, subject to conditions.
3.11	10BA	Income of an undertaking from the export out of India of eligible articles or things (i.e., hand-made articles or things of a artistic value and which requires the use of wood as main raw material), for assessment years 2004-05 to 2009-10, subject to conditions.
		4. CAPITAL GAINS:
4.1	10(23F)	Income by way of dividends or long-term capital gains of a venture capital fund/venture capital company in respect of investment made on or before 31-3-1999 [For details, refer item (N)(1) on page 160].
4.2	10(23FA)	Income by way of dividends, other than dividends referred to in section 115-O or long-term capital gains of a venture capital fund/venture capital company in respect of investment made on or after 1-4-1999 but before 1-4-2000 [For details, refer item (N)(2) on page 160].
4.3	10(23FB)[1]	Any income of a venture capital company or venture capital fund set up to raise funds for investment in a venture capital undertaking, subject to conditions [For details, refer item (N)(3) on page 160].
4.4	10(23G)[1]	Income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund/infrastructure capital company/a co-operative bank/a hotel project/a hospital project [For details, refer item (O)(2) on page 161].
4.5	10(25)	Income by way of capital gains on sale of securities, etc. received by the trustees of specified provident fund, approved gratuity fund, approved superannuation fund and Deposit-linked Insurance Fund.
4.6	10(33)	Any income (i.e., capital gains) arising from the transfer (sale) of a unit of the Unit Scheme, 1964 [For details, refer sub-item (A) of item 6 on page 152].
4.7	10(36)[1]	Long-term capital gains arising on transfer (sale) of eligible equity shares in a company purchased on or after 1-3-2003 but before 1-3-2004 [For details, refer sub-item (B) of item 6 on page 152].

1. For the notes on amendment made in section 10(6BB), 10(15A), 10(23FB) & 10(23G) and insertion of new section 10(37) & 10(38) by the Finance (No. 2) Act, 2004, refer para 2.3(B), 2.3(A), 2.8, 2.9, 6.1 & 6.2 on pp. 42,43 & 46.

2. An undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to assessment year 2003-04 and any subsequent years, in any special economic zone, is eligible for deduction @ 100% of profits and gains derived from export of such articles or things or computer software for a period of 5 consecutive assessment years and thereafter @ 50% of such profits and gains for further 2 assessment years [Section 10A(1A)].

Para No.	*Section*	*Nature of exemption*
		5. OTHER SOURCES:
5.1	10(4)[4]	In the case of a non-resident, interest on securities or bonds notified by the Central Government[3], including premium on redemption of such bonds. Interest income from Non-Resident (External) Account in any bank in India is also exempt in the case of an individual who is a "person resident outside India" [as defined in section 2(q) of the Foreign Exchange Regulation Act, 1973] or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account.
5.2	10(4B)	Interest on notified savings certificates of Central Government, issued before 1-6-2002, bought with convertible foreign exchange, accruing or arising to an individual, being a citizen of India or a person of Indian origin, who is a non-resident.
5.3	10(11)	Refer Para 1.17 on page 206.
5.4	10(15)[4]	Interest, premium on redemption or specified investments, etc., subject to conditions. Interest on notified bonds issued by a local authority.
5.5	10(23F)	Refer Para 4.1 on page 207.
5.6	10(23FA)	Refer Para 4.2 on page 207.
5.7	10(23FB)	Refer Para 4.3 on page 207.
5.8	10(23G)	Refer Para 4.4 on page 207.
5.9	10(24)	Refer Para 2.2 on page 206.
5.10	10(25)	Income by way of interest on securities and any other income received by the trustees of specified provident fund, approved gratuity fund, approved superannuation fund and Deposit-linked Insurance Fund.
5.11	10(34)	Any income by way dividends referred to in section 115-O declared, distributed or paid by a domestic company on or after 1-4-2003 [For details, refer item(i) on page 178].
5.12	10(35)[4]	Any income by way of income received in respect of units:(a) of a Mutual Fund specified in section 10(23D); (b) from the Administrator of the specified undertaking; and (c) from the specified company. However, any income arising on transfer (sale) of such units by the unit-holder will not be exempt u/s.10(35) [Proviso to section 10(35)] [For details, refer item (v) (g) on page 180].
		6. GENERAL
		A. RELATING TO RESIDENTS:
6A.1	10(1)	Agricultural income as defined in section 2(1A), subject to conditions.
6A.2	10(2)	Any sum received by a member of a Hindu undivided family, out of income of such family, or, in the case of any impartible estate where such sum has been paid out of the income of the estate belonging to the family.
6A.3	10(10BB)	Compensation paid to Bhopal-gas-leak victims, subject to conditions.
6A.4	10(10D)	Any sum received under a life insurance policy, including bonus on such policy other than any sum received: (a) u/s. 80DD(3) or 80DDA(3); (b) Keyman insurance policy; and (c) under an insurance policy issued on or after 1-4-2003 in respect of which premium payable for any of the years during the term of policy exceeds 20% of the actual capital sum assured. However in respect of policy referred to in (c), any sum received on the death of the person is exempt. Calculation of capital sum assured is to be made in accordance with the *Explanation* to section 88(2A) [For details, refer Note to item 1 on page 240].
6A.5	10(16)	Scholarship amount received to meet cost of education.
6A.6	10(17)	Daily allowance received by a member of Parliament or of any State Legislature or of any committee thereof. Any allowance received by a member of Parliament. All other allowances not exceeding Rs. 2,500 per month in the aggregate received by a member of any State Legislature or of any committee thereof, which is notified.
6A.7	10(17A)	Specified awards and rewards received in cash or kind.
6A.8	10(18)	Any income by way of pension received by Central/State Government employee who has been awarded "Param Vir Chakra" or "Mahavir Vir Chakra" or "Vir Chakra" or notified gallantry award. In the event of death of an awardee, income by way of family pension received by any member of the family of such awardee.
6A.9	10(20)	Income from house property, capital gains or other sources and from specified business of a local authority *(as defined in the Explanation)*, subject to conditions.
6A.10	10(21)	Income of a scientific research association approved u/s. 35(1)(ii), subject to conditions.
6A.11	10(22B)	Any income of notified news agency set up in India, subject to conditions.
6A.12	10(23A)	Income of approved professional association or institution, other than income from house property, rendering specific services, interest or dividends, subject to conditions.

3. The Central Government shall not notify/specify securities or bonds on or after 1-6-2002.

4. For the notes on amendment of sections 10(4) & 10(15) and new section 10(19) inserted by the Finance (No. 2) Act, 2004, refer para 2.1, 2.2 & 2.4 on page 42.

Para No.	*Section*	*Nature of exemption*
6A.13	10(23AA)	Any income of Regimental Fund or Non-Public Fund established by armed forces of the Union for the welfare of its past and present members or their dependents.
6A.14	10(23AAA)	Any income of approved fund established for notified purposes for welfare of employees or their dependents, subject to conditions.
6A.15	10(23AAB)	Any income of approved pension fund set up by: (1) the Life Insurance Corporation of India on or after 1-8-1996, or (2) any other insurer, subject to conditions.
6A.16	10(23B)	Any income of society or trust existing solely for development of khadi and village industries, subject to conditions.
6A.17	10(23BB)	Any income of statutory authority established in a State for the development of khadi or village industries in the State.
6A.18	10(23BBA)	Any income of statutory authorities established for administration of public religious or charitable trusts or endowments, etc., subject to conditions.
6A.19	10(23BBE)	Any income of the Insurance Regulatory and Development Authority established u/s. 3(1) of the Insurance Regulatory and Development Authority Act, 1999.
6A.20	10(23C)	Income of specified/notified funds, hospital or institution/approved hospital or institution and university or educational institution/approved university or educational institution, subject to conditions.
6A.21	10(23D)	Subject to the provisions of Chapter XII-E, any income of a Mutual Fund which is registered by the Securities and Exchange Board of India or which is notified by the Central Government, subject to conditions.
6A.22	10(23EA)	Any income of notified Investor Protection Fund set up by recognised stock exchanges in India, subject to condition.
6A.23	10(23EB)	Any income of the Credit Guarantee Fund Trust for Small Industries, being a trust created by the Government of India and the Small Industries Development Bank of India, in relation to assessment years 2002-03 to 2006-07.
6A.24	10(25A)	Any income of Employees' State Insurance Fund.
6A.25	10(26)	Income of member of Scheduled Tribe residing in specified areas that is States of Arunachal Pradesh, Manipur, Mizoram, Nagaland, Tripura, Ladakh region of the State of Jammu & Kashmir, etc., subject to conditions.
6A.26	10(26B)	Any income of statutory corporation, or of any other body, institution or association wholly financed by Government, for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes.
6A.27	10(26BB)	Any income of corporation established by Central/State Government for promoting the interests of the members of a notified minority community.
6A.28	10(26BBB)	Any income of a corporation established by a Central, State or Provincial Act for the welfate and economic upliftment of ex-servicemen (as defined in the *Explanation*) being the citizens of India.
6A.29	10(27)	Any income of co-operative society formed for promoting interests of the members of Scheduled Castes and/or Scheduled Tribes, subject to conditions.
6A.30	10(29A)	Any income accruing or arising to — (1) the Coffee Board; (2) the Rubber Board; (3) the Tea Board; (4) the Tobacco Board; (5) the Marine Products Export Development Authority; (6) the Agricultural and Processed Food Products Export Development Authority; and (7) the Spices Board.
6A.31	10(32)	Income not exceeding Rs. 1,500 in respect of each minor child, whose income is to be included u/s. 64(1A), is exempt.
		B. RELATING TO NON-RESIDENTS:
6B.1	10(4)	Refer Para 5.1 on page 208.
6B.2	10(4B)	Refer Para 5.2 on page 208.
6B.3	10(6)(viii)	Refer Para 1.4 on page 206.
6B.4	10(8)	Refer Para 1.7 on page 206.
6B.5	10(8A)	Refer Para 1.8 on page 206.
6B.6	10(8B)	Refer Para 1.9 on page 206.
6B.7	10(9)	Foreign income of any member of family of persons referred to in section 10(8), 10(8A) and 10(8B), subject to conditions.
6B.8	10(23BBB)	Any income of European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under notified scheme.
6B.9	10(23BBC)	Any income of SAARC Fund for Regional Projects set up under Colombo Declaration issued on 21-12-1991.
6B.10	10(23BBD)	Any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 for assessment years 2001-02 to 2007-08.

DEDUCTIONS FROM THE GROSS TOTAL INCOME

CHAPTER VI-A

[For and from assessment year 2001-02 and onwards]

Sections 80CCC to 80U specifies the deductions to be made from the gross total income. Gross total income means the total income, under all heads of income, computed in accordance with the provisions of the Act [Section 80B(5)].

The gross total income is to be arrived at before allowing any deduction under Chapter VI-A and after setting off unabsorbed losses, depreciation, etc. of the earlier years. While deductions u/s. 80CCC to 80GGC are in respect of certain payments made by the assessee, the deductions u/s. 80HH to 80RRB are in respect of certain incomes. It may be noted that, for the purpose of availing rebate of (deduction from) income-tax u/s. 88 [but not u/s. 88B, 88C & 88D], the deductions under Chapter VI-A will be on gross total income as reduced by the long-term capital gain [Section 112 (2) & 112 (3)].

The deduction in respect of certain incomes are to be allowed against the net income, that is after deducting expenses, etc. incurred for earning the gross income. In other words, income against which the deduction is to be allowed will first be computed as per the provisions of the Act and thereafter the deduction u/s. 80HH to 80RRB will be computed and allowed in respect of such net income [Section 80AB].

EXAMPLE : For assessment year 2004-05, Mr. A's income in respect of interest on securities of Central/State Government is Rs. 12,350. In order to earn this income, he had paid Rs. 500 by way of interest on borrowings and Rs. 50 by way of commission to a banker for the purpose of realisation of said income. Interest on such securities will be taxed u/s. 56 and the deduction will be allowed u/s. 57 for interest on borrowings and bank commission. The net income in respect of interest on such securities will be Rs. 11,800 [Rs. 12,350 *less* Rs. 550 (Rs. 500+Rs. 50)]. The deduction u/s. 80L(1) read with section 80AB, will be Rs. 11,800 only.

It may be noted that the aggregate amount of the deductions under Chapter VI-A should not, in any case, exceed the gross total income [Section 80A(2)].

Notes:

(1) Deduction allowed u/s. 80CCA in respect of deposits under National Savings Scheme Rules, 1987 or payment to annuity plan (i.e., 'Jeevan Dhara' & 'Jeevan Akshay' plans of L.I.C.) is deemed to be the income in the following circumstances:

(a) where any amount (including interest accrued) standing to the credit of assessee under the National Savings Scheme/notified scheme in respect of which deduction has been allowed u/s. 80CCA, is withdrawn in whole or in part in any previous year, the whole of the amount so withdrawn shall be deemed to be the income of the previous year in which withdrawal is made. Interest on the deposits made under the National Savings Scheme/notified scheme will be taxable only in the year of withdrawal;

(b) where any amount is received on account of surrender of the policy or as annuity or bonus in any previous year, the whole of the amount so received shall be deemed to be the income of the previous year in which the amount is received.

However, amount received under the National Savings Scheme by the legal heirs on the death of the depositor is not chargeable to income-tax in the hands of the legal heirs. Similarly, the amount paid by way of Gross Insurance Value Element under annuity plans of L.I.C. to the nominee or legal heirs of the assessee after his death will also not be chargeable to income-tax in the hands of nominee/legal heirs [Circular No. 532, dt. 17-3-1989: 176 ITR(St.) 327]. But, amounts paid to an assessee on closure of account under the National Savings Scheme on the expiry of 3 years would be taxable u/s. 80CCA(2) [Vide Circular No. 534, dt. 7-4-89: 177 ITR(St.) 33].

For further details, refer item (i) on page 190 of ITRR 1995-96 (57th Year of Publication).

(2) Deduction allowed u/s. 80CCB in respect of investment made under Equity Linked Savings Scheme is deemed to be the income in the following circumstance:

Where any amount invested in the units issued under a plan formulated under the Equity Linked Savings Scheme in respect of which a deduction u/s. 80CCB has been allowed is returned in whole or in part either by way of repurchase of such units or on the termination of the plan, by the Fund or the Trust, as the case may be, in any previous year, it will be deemed to be the income of that previous year and charged to tax accordingly.

Further, the difference between the repurchase price and amount invested in units will be deemed to be the capital gains arising in the previous year in which such repurchase takes place or the plan is terminated [Refer section 45(6)].

However, as per clause (e) of Para 6 of the Equity Linked Savings Scheme, 1991 [Refer 188 ITR (St.) 10], any withdrawal made by a nominee or legal heir of the deceased assessee will not form part of the taxable income of the nominee or the legal heir in the year of withdrawal.

I. DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS:

(i) Deduction in respect of contribution to certain pension funds:

(Refer Section 80CCC)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The assessee is an individual;

(2) the assessee has in the previous year paid or deposited any amount (excluding interest or bonus accrued or credited to the assessee's account, if any) out of his income chargeable to tax, to effect or keep in force a contract for any annuity plan of—

(A) Life Insurance Corporation of India, *or*

(B) any other insurer[1] [in relation to assessment year 2002-03 and onwards],

for receiving pension from the fund referred to in section 10(23AAB);

(3) where any amount standing to the credit of the assessee in a fund in respect of which a deduction has been allowed u/s. 80CCC(1), together with interest or bonus accrued or credited to his account, if any, is received by him or his nominee—

(a) on account of the surrender of the annuity plan in whole or in part, in any previous year, or

(b) as pension received from the annuity plan,

an amount equal to the whole of the amount referred to in (a) or (b) shall be deemed to be the income of the assessee or his nominee, as the case may be, in that previous year in which such withdrawal is made, or as the case may be, pension is received, and accordingly be chargeable to tax as income of that previous year.

However, commuted amount receivable as pension on maturity of such a pension scheme is exempt u/s. 10(10A)(iii); and

(4) where a deduction has been allowed u/s. 80CCC in respect of any amount paid or deposited, a rebate with reference to such amount shall not be allowed u/s. 88.

Amount of deduction:

(1) Where such payment/deposit (excluding interest or bonus accrued/credited to the assessee's account, if any) does not exceed Rs. 10,000	the whole of such amount
(2) where such payment/deposit (excluding interest or bonus accrued/credited to the assessee's account, if any) exceeds Rs. 10,000	Rs. 10,000.

FOR THE NOTES ON DEDUCTION IN RESPECT OF CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT UNDER NEW SECTION 80CCD, REFER 4.1(C) ON PAGE 44.

(ii) Deduction in respect of medical insurance premia:

(Refer Section 80D)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) Medical insurance premia is paid by cheque in the previous year out of his income chargeable to tax and such premia is paid—

(a) in the case of individual, on his health or on the health of his spouse or dependent parents or dependent children,

(b) in the case of Hindu undivided family, on the health of any member of the family; and

(2) such insurance is in accordance with a scheme framed in this behalf by—

(A) the General Insurance Corporation of India and approved by the Central Government, *or*

(B) any other insurer[1] and approved by the Insurance Regulatory and Development Authority [in relation to assessment year 2002-03 and onwards].

Amount of deduction:

(1) where such premia does not exceed Rs. 10,000.	the whole of such sum
(2) where such premia exceeds Rs. 10,000*	Rs. 10,000*.

**It may be noted that where such premia is paid in respect of insurance on the health of the assessee, or his/her spouse or dependent parents or any member of the family in case the assessee is a HUF, and who is a senior citizen [as defined in the Explanation to section 80DDB (Refer footnote No. 14 on page 214)], the permissible deduction will be Rs. 15,000, instead of Rs. 10,000 [Proviso to section 80D(1)].*

(iii) Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability:

(Refer Section 80DD)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The assessee is either an individual who is resident in India or a Hindu undivided family who is resident in India;

(2) the assessee has, during the previous year,—

1. "Insurer" is defined to mean an insurer being an Indian insurance company, as defined in section 2(7A) of the Insurance Act, 1938, which has been granted a certificate of registration u/s. 3 of that Act [Section 2(28BB)].

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent[2], being a person with disability[3], or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer[4] or the Administrator[5] or the specified company[6] subject to the conditions specified in (3) & (4) hereafter and approved by the Board in this behalf for the maintenance of a dependent[2], being a person with disability[3];

(3) the scheme referred to in condition (2)(b) above provides for payment of annuity or lump sum amount for the benefit of a dependent[2], being a person with disability[3], on the death of the individual or the member of HUF in whose name subscription to the scheme has been made;

(4) subscriber (i.e., assessee) is required to nominate either the dependent[2], being a person with disability[3], or any other person or a trust to receive the payment on his behalf, for the benefit of the dependent[2], being a person with disability[3]; and

(5) the assessee is required to furnish a copy of certificate issued by the medical authority[7] in the prescribed form[8], along with the return of income u/s. 139, in respect of the assessment year for which the deduction is claimed. Where the condition of disability requires reassessment of its extent after a period specified in the said certificate, deduction for subsequent assessment years will be allowed if a new certificate is obtained from the medical authority[7] in the prescribed form[8], and copy thereof is furnished with the return of income.

Amount of deduction:

In respect of amount of —

(A) any expenditure, referred to in condition (2)(a); or

(B) payment/deposit, referred to in condition (2)(b),

deduction is Rs. 50,000† during the previous year of expenditure incurred/payment or deposit of amount.

† Where such dependent[2] is a person with severe disability[3], the deduction will be Rs. 75,000, instead of Rs. 50,000 [Proviso to section 80 DD(1)].

NOTE: If dependent[2], being a person with disability[3], predeceases the subscriber, an amount equal to the amount paid or deposited referred to in condition (2)(b) above shall be deemed to be the income of the subscriber of the previous year in which such amount is received by the said subscriber and shall accordingly be chargeable to tax as income of that previous year.

(iv) Deduction in respect of maintenance including medical treatment of handicapped dependent:

(Refer Section 80DD)

*Assessment years 2001-02 to 2003-04**:

* From assessment year 2004-05 and onwards, deduction in respect of maintenance including medical treatment will be allowed under substituted section 80DD [Refer preceding item (iii)].

Conditions:

(1) The assessee is either an individual who is resident in India or a Hindu undivided family who is resident in India;

(2) the assessee has, during the previous year,—

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2. "dependent" means: (a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them; (b) in the case of a HUF, a member of the HUF, dependant wholly or mainly on such individual or HUF for his support and maintenance, and who has not claimed any deduction u/s. 80U in computing his total income for the assessment year relevant to the previous year.

3. "person with disability"[8a] means a person as referred to in section 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. As per the said Act, "person with disability" means a person suffering from not less than 40% of any disability as certified by a medical authority[7].

"disability"[8a] is defined in section 2(i) of the said Act to mean – (a) blindness; (b) low vision; (c) leprosy-cured; (d) hearing impairment; (e) locomotor disability; (f) mental retardation; and (g) mental illness.

"person with severe disability"[8a] means a person with 80% or more of one or more disabilities, as referred to in section 56(4) of the Act, referred to above.

4. Refer footnote No. 1 on page 211.

5. "Administrator is defined to mean the Administrator" as referred to in section 2(a) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. As per said Act, "administrator" means a person or a body of persons appointed as administrator u/s. 7.

6. "specified company" is defined to mean a company as referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. As per the said Act, "specified company" means a company to be formed and registered under the Companies Act, 1956, and whose entire capital is subscribed by notified financial institutions or banks, for the purpose of transfer and vesting of the undertaking.

7. "medical authority"[8a] means the medical authority as referred to in section 2(p) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. As per the said Act, "medical authority" means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government.

8. As per substituted Rule 11A, w.e.f. 1-4-2003, the certificate to be issued by the medical authority[7] in the form prescribed is as per Notification No. 16-18/97-NI-1, dt. 1-6-2001 and dt. 18-2-2002.

8a. For the enlarged definition of "person with disability", "disability", "person with severe disability" and "medical authority" under substituted clauses (c), (e), (f) & (g) of the *Explanation* to section 80DD/substituted *Explanation* to section 80U by the Finance (No. 2) Act, 2004, refer para 8.2/8.5 on page 47/339.

(a) incurred *any* expenditure for the medical treatment (including nursing), training and rehabilitation of a handicapped dependent[9], or

(b) paid or deposited *any* amount under a scheme framed in this behalf by the,—

(i) Life Insurance Corporation, or

(ii) any other insurer[10] [in relation to assessment year 2002-03 and 2003-04], or

(iii) Unit Trust of India,

subject to conditions specified in (3) & (4) hereafter and approved by the Board in this behalf for the maintenance of handicapped dependent[9];

(3) the scheme referred to in (2)(b) above provides for payment of annuity or lump sum amount for the benefit of a handicapped dependent[9] on the death of the individual or the member of HUF in whose name subscription to the scheme have been made; and

(4) subscriber (i.e., assessee) referred to in (2)(b) above is required to nominate either the handicapped dependent[9] or any other person or a trust to receive the payment on his behalf, for the benefit of the handicapped dependent[9].

Amount of deduction:

In respect of amount of —

(A) any expenditure, referred to in condition (2)(a); or

(B) payment/deposit, referred to in condition (2)(b),

deduction is Rs. 40,000 during the previous year of expenditure incurred/payment or deposit of amount.

NOTE: If the handicapped dependent predeceases the subscriber, an amount equal to the amount paid or deposited under condition (2)(b) shall be deemed to be the income of the subscriber of the previous year in which such amount is received by the said subscriber and shall accordingly be chargeable to tax as income of that previous year.

(v) Deduction in respect of medical treatment, etc.:

(Refer Section 80DDB)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The assessee is either an individual who is resident in India or a Hindu undivided family who is resident in India;

(2) the assessee has, during the previous year, *actually* paid any amount for the medical treatment of specified disease or ailment prescribed in substituted rule 11DD(1)[11] of the Income-tax Rules;

(3) such payment on specified disease or ailment should have been paid –

(a) in the case of an individual, for himself or a dependant[12], or

(b) in the case of Hindu undivided family, for any member of the said Hindu undivided family; and

(4) the assessee is required to furnish with the return of income, a certificate in prescribed Form No. 10-I. Such certificate should be from a neurologist, an oncologist, a urologist, a haemotologist, an immunologist or such other specialist, as is prescribed in the substituted rule 11DD(2), working in a Government hospital[13].

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9. "Handicapped dependent" means a person who—

(a) is a relative of the individual or, as the case may be, is a member of the HUF and is not dependent on any person other than such individual or HUF for his support or maintenance; and

(b) is suffering from a permanent physical disability (including blindness) or mental retardation specified in Rule 11A of I.T. Rules for the purposes of section 80DD, 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 person's capacity for normal work or engaging in a gainful employment or occupation.

"Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants.

"Relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendent or descendent of that individual [Vide section 2(41)].

10. Refer footnote No. 1 on page 211.

11. Specified diseases or ailments under substituted rule 11DD, w.e.f. 1-4-2003, are – **(i)** Neurological diseases where the disability level has been certified to be of 40% and above: (a) Dementia, (b) Dystonia Musculorum deformans, (c) Motor neuron disease, (d) Ataxia, (e) Chorea, (f) Hemiballisums, (g) Aphasia & (h) Parkinsons disease; **(ii)** Malignant cancers; **(iii)** Full blown acquired immuno-deficiency syndrome (AIDS); **(iv)** Chronic renal failure; and **(v)** Hematological disorders: (a) Hemophilia & (b) Thalassaemia.

12. "Dependent" means: (a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them; and (b) in the case of HUF, a member of the HUF, dependent wholly or mainly on such individual or HUF for his support and maintenance.

13. Refer para 2 of footnote No. 9 above.

Amount of deduction:

Where the amount *actually* paid referred to in condition (2) above:

(a) does not exceed Rs. 40,000† ... ... the whole of such amount†

(b) exceeds Rs. 40,000† ... ... Rs. 40,000†.

† Where the amount *actually* paid is in respect of the assessee or his dependent or any member of a HUF of the assessee and who is a senior citizen[14], the ceiling limit of deduction is Rs. 60,000, instead of Rs. 40,000 [3rd proviso to section 80DDB].

NOTE: The amount *actually* paid is to be reduced by the amount received if any, under an insurance from an insurer[15], or reimbursed by an employer, for the medical treatment of the person referred to in condition (3) above. The net amount (i.e., amount *actually* paid *less* insurance claim received/reimbursed by the employer) is eligible for deduction subject to ceiling limit of Rs. 40,000 or, as the case may be, Rs. 60,000.

(vi) Deduction in respect of medical treatment, etc.:

(Refer Section 80DDB)

Assessment years 2001-02 to 2003-04:*

* From assessment year 2004-05 and onwards, deduction in respect of medical treatment, etc. will be allowed under substituted section 80DDB [Refer preceding item (v)].

Conditions:

(1) The assessee is either an individual who is resident in India or a Hindu undivided family who is resident in India;

(2) the assessee has, during the previous year, *actually* incurred any expenditure for the medical treatment of specified disease or ailment prescribed in the then rule 11DD(1)[16] of the Income-tax Rules;

(3) such expenditure on specified disease or ailment should have been incurred—

(a) in the case of an individual, for himself, or a dependent relative[17], or

(b) in the case of a Hindu undivided family, for any member of the said Hindu undivided family; and

(4) the assessee is required to furnish a certificate in prescribed Form No. 10-I and from such authority as is prescribed in the then rule 11DD(2) of the Income-tax Rules.

Amount of deduction:

In computing the total income of such assessee of that previous year in which

such expenditure is *actually* incurred .. .. Rs. 40,000†.

†Where such expenditure is incurred in respect of the assessee or his dependent relative or any member of a HUF of the assessee and who is a senior citizen[14], the limit of deduction is Rs. 60,000, instead of Rs. 40,000.

NOTE: The expenditure *actually* incurred is to be reduced by the amount received, if any, under an insurance from an insurer for medical treatment of the person referred to in condition (3) above. The net amount of expenditure so incurred (i.e., amount actually incurred *less* insurance claim received) is eligible for deduction subject to ceiling limit of Rs. 40,000, or as the case may be, Rs. 60,000.

(vii) Deduction in respect of repayment of loan taken for higher education:

(Refer Section 80E)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The assessee is an individual;

(2) the assessee has paid any amount in the previous year, out of his income chargeable to tax, by way of repayment of loan, taken by him from any financial institution (including bank)[18] or any approved charitable institution[19] for the purpose of pursuing higher education[20], or interest on such loan; and

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14. "Senior citizen" is defined to mean an individual resident in India who is of the age of 65 years or more at any time during the relevant previous year [*Explanation* to section 80DDB].

15. "Insurer" shall have the meaning assigned to it in section 2(9) of the Insurance Act, 1938.

16. Specified diseases & ailments under the then rule 11DD(1) are — (1) Neurological diseases: (a) Dementia, (b) Dystonia Musculorum Deformans, (c) Motor neuron disease, (d) Ataxia, (e) Chorea, (f) Hemiballismus, (g) Aphasia, (h) Parkinson's disease [the diseases mentioned in (1)(a) to (h) shall be treated as chronic and protracted, if the disability has been certified to be 40% and above]; (2) Cancer; (3) Full blown acquired immuno-deficiency syndrome (AIDS); (4) Chronic renal failure; (5) Hemophilia; & (6) Thalassaemia.

17. 'Dependent' means a person who is not dependent for his support or maintenance on any person other than the assessee [*Explanation* to section 80DDB]. 'Relative', in relation to an individual, means the husband, wife, brother or sister or any lineal ascendent or descendent of that individual [Vide section 2(41)].

18. "Financial institution" means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which is notified by the Central Government [Financial institution notified is 'Housing Development Finance Corporation Ltd.' vide Notification No. S.O. 657(E), dt. 21-6-02: 257 ITR (St.) 59].

19. "Approved charitable institution" means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government u/s. 10(23C) or 80G(2)(a).

20. "Higher education" means full-time studies for graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics. Deduction u/s. 80E will not be available for instance, for courses in Humanities, Social Sciences, Commerce, Accountancy or Law [Vide Para 36.2 of Circular No. 684, dt. 10-6-1994: 208 ITR (St.) 35]. However, the Board has clarified that for the purposes of section 80E, graduate or post-graduate studies in engineering would include such studies in architecture [Vide Circular No. 688, dt. 23-8-1994: 209 ITR (St.) 75].

(3) deduction is not allowable to parent/guardian of the assessee but to the assessee (i.e., student) himself when he starts repaying the loan [Vide Para No. 36.2 of Circular No. 684, dt. 10-6-1994: 208 ITR (St.) 35].

Amount of deduction:

In computing the total income of such an assessee, *the maximum deduction allowable is Rs. 40,000* in the year of payment/repayment of loan/interest thereon i.e., in initial assessment year[21] and for seven successive assessment years or till the loan/interest thereon [referred to in condition (2) on page 214] is repaid in full, whichever is earlier.

(viii) Deduction in respect of donations to certain funds, charitable institutions, etc.:

(Refer Section 80G)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The qualifying amount of aggregate donations under sub-items (q) & (u) of item (2) and items (3) to (5) given below should not exceed 10% of the gross total income as reduced by deductions permissible under other provisions of Chapter VI-A [Sec. 80G(4)];

(2) the monetary ceiling stated in (1) above does not apply in cases where donations are made—

(A) (a) to the National Defence Fund [Sec. 80G (2)(a)(i)],
(b) to the Jawaharlal Nehru Memorial Fund [Sec. 80G (2)(a)(ii)],
(c) to the Prime Minister's Drought Relief Fund [Sec. 80G (2)(a)(iii)],
(d) to the National Children's Fund [Sec. 80G (2)(a)(iiib)],
(e) to the Indira Gandhi Memorial Trust [Sec. 80G (2)(a)(iiic)],
(f) to the Rajiv Gandhi Foundation [Sec. 80G (2)(a)(iiid)].

(B) (a) to the Prime Minister's National Relief Fund [Sec. 80G (2)(a)(iiia)],
(b) to the Prime Minister's Armenia Earthquake Relief Fund [Sec. 80G (2)(a)(iiiaa)],
(c) to the Africa (Public Contribution-India) Fund [Sec. 80G (2)(a)(iiiab)],
(d) to the National Foundation for Communal Harmony [Sec. 80G (2)(a)(iiie)],
(e) to a University or any educational institution of national eminence as may be approved by the prescribed authority [Sec. 80G (2)(a)(iiif)],
(f) to the Chief Minister's Earthquake Relief Fund, Maharashtra [Sec. 80G (2)(a)(iiig)],
(g) to any Zila Sakshartha Samiti constituted in any district under the chairmanship of the Collector of that district for the purposes of improvement of primary education in villages & towns in such district and for literacy and post-literacy activities [Sec. 80G (2)(a)(iiih)],
(h) to the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks [Sec. 80G (2)(a)(iiiha)],
(i) to any fund set up by a State Government to provide medical relief to the poor [Sec. 80G (2)(a)(iiihb)],
(j) to the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependents [Sec. 80G (2)(a)(iiihc)],
(k) to the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996 [Sec. 80G (2)(a)(iiihd)],
(l) to the National Illness Assistance Fund [Sec. 80G (2)(a)(iiihe)],
(m) to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union teritory [Sec. 80G (2)(a)(iiihf)],
(n) to the National Sports Fund to be set up by the Central Government [Sec. 80G (2)(a)(iiihg)],
(o) to the National Cultural Fund set up by the Central Government [Sec. 80G (2)(a)(iiihh)],
(p) to the Fund for Technology Development and Application set up by the Central Government [Sec. 80G (2)(a)(iiihi)],
(q) by a company to the Indian Olympic Association or to any other association/institution *established in India and notified*[22] for development of infrastructure for sports and games in India or the sponsorship of sports and game in India [Sec. 80G (2)(c)],
(r) to any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat [Sec. 80G (2)(a)(iiiga)],
(s) any sums paid by the assessee, during the period between 26-1-2001 and 30-9-2001, to any trust, institution or fund to which section 80G applies for providing relief to the victims of earthquake in Gujarat, subject to conditions specified in section 80G(5C) [Sec. 80G (2)(d)],
(t) to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted u/s. 3(1) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (from assessment year 2002-03) [Sec. 80G (2)(a)(iiihj)],
(u) to a Government or to any such local authority, institution or association as may be approved by the Central Government, to be utilised for the purpose of promoting family planning [Sec. 80G (2)(a)(vii)];

21. "Initial assessment year" means assessment year relevant to previous year, in which the assessee starts repaying the loan or interest thereon.

22. For assessment years 2001-02 & 2002-03, for the words in "italics", read "notified u/s. 10(23)".

(3) the donations must be to those approved institutions or funds established in India for a charitable purpose and fulfilling the conditions prescribed under the Income-tax Act [Sec. 80G (2)(a)(iv) read with sec. 80G (5)];

[23](4) donations made by an assessee to association or institution having as its object the control, supervision, regulation or encouragement in India of notified games or sports[24] will be regarded as donations made to institutions established in India for a charitable purpose and will qualify for deduction u/s. 80G (from assessment year 2003-04) *[Explanation* 4 to sec. 80G];

(5) donations to any corporation referred to in section 10(26BB) [Sec. 80G (2)(a)(via)]; and

(6) only donations in form of money and not in kind will qualify for deduction *[Explanation* 5 to sec. 80G].

Percentage of deduction:

In computing the total income of any assessee—

(a) where the donations are made to: (1) the National Defence Fund set up by the Central Government, or (2) to the fund/institution, etc. referred to in sub-items (a) to (u) of item (B) of condition (2) on page 215 . . . . . 100% of qualifying donations

(b) in any other case . . . . . 50% of qualifying donations.

NOTE: Where deduction in respect of donations is claimed and allowed u/s. 80G for any assessment year, deduction in relation to such sum shall not be allowed under any other provision of the Act for the same or any other assessment year [Sec. 80G(5A)].

The approval to be granted by the Commissioner to the institutions/funds shall have effect for a period not exceeding five assessment years, as may be specified in the approval [Proviso to sec. 80G(5)(vi)].

(ix) Deduction in respect of rents paid:

(Refer Section 80GG)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The rent paid is in excess of 10% of his total income before allowing any deduction under this section;

(2) the rent paid is in respect of accommodation occupied for the purposes of his own residence subject to the condition that the assessee files declaration in Form No. 10BA [vide Rule 11B];

(3) the deduction is to be claimed only in cases where any residential accommodation is not owned by the assessee or by his spouse or minor child or by Hindu undivided family of which he is a member.

However, the deduction in respect of rents paid will be denied only where the assessee, his spouse or minor child or the Hindu undivided family of which he is a member, owns any residential accommodation at the place where the assessee resides or performs the duties of his office or employment or carries on his business or profession. Thus, where the assessee or his spouse or minor child or a Hindu undivided family of which he is a member owns any residential accommodation elsewhere (i.e., at places other than the place where he ordinarily performs his duties of employment or carries on business or profession) the deduction under this section will not be denied. In cases where the assessee owns any residential accommodation at any other place and he claims concession in respect of self-occupied house property in respect of such accommodation, the deduction available under this section will be denied even if he does not own any residential accommodation at the place where he ordinarily resides or performs the duties of his office or employment or carries on his business or profession; and

(4) the assessee, being an employee, who is entitled to house rent allowance from the employer is eligible for exemption under section 10(13A) of the Act (refer page 90) but not for deduction under section 80GG.

Amount of deduction:

25% of total income or Rs. 2,000 per month, whichever is less.

Example: Mr. A pays rent of Rs. 3,000 per month. His gross total income for the assessment year 2004-05 is Rs. 1,17,000. Deduction u/s. 80GG is to be claimed as explained hereunder:

Gross total income				Rs. 1,17,000
Less: Deductions under Chapter VI-A:				
(1) Mediclaim insurance premia (section 80D)	Rs.	5,000		
(2) Interest from bank (section 80L)	Rs.	12,000	Rs.	17,000
Base for deduction under section 80GG[25]			Rs.	1,00,000
Rent paid (Rs. 3,000 ×12 months)	Rs.	36,000		
Less: 10% of Rs. 1,00,000[25] as computed above	Rs.	10,000		
Rent paid in excess	Rs.	26,000		
(1) Rent paid in excess	Rs.	26,000		
(2) 25% of total income viz. Rs. 1,00,000[25]	Rs.	25,000		
(3) Ceiling amount of Rs. 2,000 per month × 12 months	Rs.	24,000		
The least of the above viz. Rs. 24,000 is allowable as deduction under section 80GG[26]			Rs.	[26]24,000
Taxable income			Rs.	76,000

23. Upto assessment year 2002-03, for item (4), read "(4) donation made by an assessee to an association approved u/s. 10(23) [i.e., sports association or institution] will be regarded as donation made to institution established in India for a charitable purpose and will qualify for deduction u/s. 80G [the then *Explanation* 4 to section 80G].".

24. For notified games and sports, refer Notification No. S.O. 1246 (E), dt. 29-11-2002: 259 ITR (St.) 68.

25. Under the *Explanation* to section 80GG, the base to be adopted in this *Example* for deduction under section 80GG is Rs. 1,00,000. The gross total income in this *Example* is Rs. 1,17,000 and the total income is Rs. 76,000. The *Explanation* states that "10% or 25% of his total income" shall mean 10% or 25%, as the case may be, of the assessee's total income before allowing deduction for any expenditure under section 80GG [Refer Circular No. 327, dt. 8-2-82: 135 ITR (St.) 6].

26. Deduction u/s. 80GG will be allowed subject to the condition that Mr. A files the declaration in Form No. 10BA.

(x) Deduction in respect of certain donations for scientific research or rural development:

(Refer Section 80GGA)

Assessment years 2001-02 to 2005-06:

Conditions:

Any sum paid by an assessee —

(1) in the previous year to a scientific research association which has as its object the undertaking of scientific research or to a University, college or other institution to be used for scientific research subject to the condition that the association, University, college or institution is approved u/s. 35(1)(ii) read with Rule 6 of Income-tax Rules, 1962,

(2) in the previous year to a university, college or other institution to be used for research in social science or statistical research subject to the condition that such university, college or institution is approved u/s. 35(1)(iii),

(3) *(a)* in the previous year to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved for the purposes of section 35CCA and the association or institution is approved u/s. 35CCA(2),

(b) in the previous year to an association or institution which has as its object the training of persons for implementing programmes of rural development and the association or institution is approved u/s. 35CCA(2A),

subject to the condition that the assessee produces certificate from such association or institution as required for the purposes of sub-section (2) or, as the case may be, sub-section (2A) of section 35CCA,

(4) in the previous year to a public sector company or a local authority or to an association or an institution approved by the National Committee, for carrying out any eligible project or scheme subject to the condition that the assessee furnishes the certificate referred to in section 35AC(2)(a) from such public sector company/local authority/ association/institution,

(5) in any previous year ending on or before 31-3-2002 to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or of afforestation approved for the purposes of section 35CCB(2),

(6) in any previous year ending on or before 31-3-2002 to such fund for afforestation as is notified by the Central Government u/s. 35CCB (1)(b),

(7) in the previous year to a rural development fund set up and notified by the Central Government for the purposes of section 35CCA(1)(c),

(8) in the previous year to the National Urban Poverty Eradication Fund (NUPEF) set up and notified by the Central Government for the purposes of section 35CCA(1)(d),

shall be deducted in computing the total income of an assessee subject to the following conditions:—

(i) deduction under this section is not admissible in the case of an assessee whose gross total income includes income under the head "Profits and gains of business or profession", and

(ii) where a deduction under this section is claimed and allowed for any assessment year in respect of payments, referred to above, deduction shall not be allowed in respect of such payments under any other provision of the Income-tax Act, 1961 for the same or any other assessment year.

Amount of deduction:

Sums paid to a scientific research association, etc. ref. to in conditions (1) to (8) above. . . . . the whole of such amount.

(xi) Deduction in respect of contributions given by companies to political parties:

(Refer Section 80GGB*)

W.e.f. 11-9-2003:

In computing the total income of an assessee, being an Indian company, there shall be deducted any sum contributed by it, on or after 11-9-2003, in the previous year to any political party.

It is clarified that the word "contribute" with its grammatical variation, has the meaning assigned to it u/s. 293A of the Companies Act, 1956. "Political party" means a political party registered u/s. 29A of the Representation of the People Act, 1951.

(xii) Deduction in respect of contributions given by any person to political parties:

(Refer Section 80GGC*)

W.e.f. 11-9-2003:

In computing the total income of an assessee, being any person, except local authority and every artifical juridical person wholly or partly funded by the Government, there shall be deducted any amount of contribution made by him, on or after 11-9-2003, in the previous year to a political party.

"Political party" means a political party registered u/s. 29A of the Representation of the People Act, 1951.

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*Sections 80GGB & 80GGC inserted by section 10 of the Election and Other Related Laws (Amendment) Act, 2003: 263 ITR (St.) 49-52.

II. DEDUCTIONS IN RESPECT OF CERTAIN INCOMES:

(xiii) Deduction in respect of profits and gains from projects outside India:

(Refer Section 80HHB)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is either an Indian company or a person who is a resident in India;

(2) the assessee is engaged in the execution of a "foreign project" undertaken by him in pursuance of a contract entered into by him (or executing of any work undertaken by him forming part of a foreign project undertaken by 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.

"Foreign project" means a project for: (i) the construction of any building, road, dam, bridge or other structure outside India; or (ii) the assembly or installation of any machinery or plant outside India; or (iii) the execution of such other work as prescribed in rule 17D;

(3) the consideration for the execution of such project is payable in convertible foreign exchange[27];

(4) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the foreign project. 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* to section 288(2) and the assessee furnishes along with the return of income, the report of such audit in the prescribed Form No. 10CCA duly signed and verified by such accountant. Further, the assessee furnishes, along with his return of income, a certificate in the prescribed Form No. 10CCAH from an accountant as defined in the *Explanation* to section 288(2), duly signed and verified by such accountant, certifying that the deduction has been correctly claimed in accordance with the provisions of section 80HHB;

(5) the assessee is required to debit to the profit and loss account of the previous year in respect of which the deduction is claimed under section 80HHB and credit to a "Foreign Projects Reserve Account" a sum equal to **specified percentage[28]** of the profits and gains from such project or work. The reserve so created is required to be utilised by the assessee during a period of five immediately succeeding years for the purposes of his business and not for distribution by way of dividends or profits;

(6) the assessee is required to remit into India in convertible foreign exchange an amount equal to **specified percentage** of such profits and gains[29] within a period of six months from the end of the relevant previous year or within such further period as may be extended by the competent authority[30]; and

(7) the consideration received for the execution of a foreign project shall not qualify for deduction for any assessment year under any other provision of Chapter VI-A.

Percentage of deduction:

Specified percentage[28] of deduction in respect of profits and gains relating to execution of such "foreign project" will be allowed in computing the total income of the assessee.

NOTES: (1) If the amount credited to the "Foreign Projects Reserve Account" or the amount actually remitted into India by the assessee or either of these amounts is less than **specified percentage[28]** of such profits and gains, then, deduction will be restricted to the amount so credited to the "Foreign Projects Reserve Account" or the amount actually brought into India, whichever is less.

(2) If at any time, before the expiry of 5 years from the end of the previous year in which deduction u/s. 80HHB(1) is allowed, the assessee utilises the amount credited to the "Foreign Projects Reserve Account" for the purposes of distribution by way of dividends or profits or for any other non-business purpose, then, deduction originally allowed will be deemed to have been wrongly allowed and the assessment of that year will be rectified within a period of four years from the end of the accounting year in which the "Foreign Projects Reserve Account" is utilised for any of such purposes [Section 80HHB (4) read with section 154].

(3) The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80HHB, where the approval of the competent authority[30] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is received in, or brought into, India [Section 155(13)].

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27. "Convertible foreign exchange" will also include amounts received in non-convertible rupees from bilateral account countries and receipts in Indian rupees under Government to Government credit. Remittances from Nepal and Bhutan are, however, excluded [Vide Circular No. 575, dt. 31-8-90: 185 ITR (St.) 32].

28. Specified percentage of deduction u/s. 80HHB/80HHBA is as under—

(a)	**for assessment year 2001-02**	**...**	**40% from such profits and gains;**
(b)	**for assessment year 2002-03**	**...**	**30% from such profits and gains;**
(c)	**for assessment year 2003-04**	**...**	**20% from such profits and gains;**
(d)	**for assessment year 2004-05**	**...**	**10% from such profits and gains;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction from such profits and gains.**

29. RBI/ECGC bonds issued by way of settlement of claims of projects in Iraq will be treated as convertible foreign exchange brought into India for the purposes of section 80HHB [Vide Circular No. 711, dt. 24-7-1995: 215 ITR (St.) 2].

30. "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 & dealings in foreign exchange.

(xiv) Deduction in respect of profits and gains from housing projects in certain cases:

(Refer Section 80HHBA)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is either an Indian company or a person (other than a company) who is a resident in India;

(2) the assessee's gross total income includes any profits and gains derived from the execution of a housing project[31] awarded on the basis of global tender and such project is aided by the World Bank;

(3) the assessee maintains separate accounts in respect of profits and gains derived from the business of the execution of the housing project undertaken by him. Where the assessee is a person other than an Indian company or a co-operative society, such accounts should be audited by an accountant as defined in the *Explanation* to section 288(2) and the assessee furnishes alongwith the return of income, the report of such audit in the prescribed Form No. 10CCAA duly signed and verified by such accountant;

(4) the assessee is required to debit to the profit and loss account of the previous year in respect of which deduction is claimed u/s. 80HHBA (1) and credit to the "Housing Projects Reserve Account" a sum equal to **specified percentage**[31a] of the profits and gains from such housing project business. The reserve so created is required to be utilised by the assessee during a period of five immediately succeeding years for the purposes of his business and not for distribution by way of dividends or profit; and

(5) the income received for the execution of such a housing project shall not qualify for deduction for any assessment year under any other provision of Chapter VI-A under heading "C-Deduction in respect of certain incomes".

Percentage of deduction:

Specified percentage[31a] of deduction in respect of profits and gains relating to execution of such "housing project" will be allowed in computing the total income of the assessee.

NOTES: (1) If the amount credited to the "Housing Projects Reserve Account" is less than **specified percentage**[31a] of such profits and gains, then, deduction will be restricted to the amount so credited to the "Housing Projects Reserve Account".

(2) If at any time, before the expiry of 5 years from the end of the previous year in which deduction u/s. 80HHBA (1) is allowed, the assessee utilises the amount credited to the "Housing Projects Reserve Account" for the purposes of distribution by way of dividends or profit or for any other non-business purpose, then, deduction originally allowed will be deemed to have been wrongly allowed and the assessment of that year will be rectified within a period of four years from the end of the accounting year in which the "Housing Projects Reserve Account" is utilised for any of such purposes [Section 80HHBA(3) read with section 154].

(xv) Deduction in respect of export turnover:

(Refer Section 80HHC)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) (a) The assessee is either an Indian company or a person (other than a company) who is resident in India, or

(b) the assessee is a supporting manufacturer[32] exporting goods or merchandise through Export/Trading House subject to the condition that a certificate in a prescribed Form No. 10CCAB has been issued by Export/Trading House, certifying that in respect of the amount of export turnover specified therein, the deduction u/s. 80HHC is to be allowed to the supporting manufacturer. The certificate received from Export/Trading House is to be furnished along with the return of income by the supporting manufacturer, or

(c) only for the assessment year 2004-05, an assessee owning any undertaking which manufactures or produces goods or merchandise anywhere in India (outside any special economic zone) and sells the same to any undertaking situated in a special economic zone which is eligible for deduction u/s. 10A, then, such sale shall be deemed to be export out of India for the purposes of section 80HHC and eligible for deduction u/s. 80HHC [Section 80HHC(4C)]. The provisions of section 80HHC(4) provides that the assessee is also required to furnish along with the return of income, a certificate in Form No. 10CCABA from the undertaking in the special economic zone containing such particulars as may be prescribed, duly certified by the auditor auditing the accounts of the undertaking in the special economic zone under the Income-tax Act or any other law for the time being in force [Proviso to section 80HHC(4)];

(2) the export out of India during the previous year relevant to an assessment year are of any goods or merchandise other than: (i) mineral oil; and (ii) minerals and ores [other than processed minerals and ores specified in the Twelfth Schedule[33]].

Export out of India will not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance at any customs station as defined in the Customs Act, 1962.

Where the goods or merchandise are transferred by an assessee to an overseas branch, office, warehouse or any other establishment of the assessee and such goods or merchandise are sold from such overseas branch, etc., then, such transfer will be deemed to be export out of India and the value of such goods or merchandise declared in the shipping bill or bill of export will be deemed to be the sale proceeds thereof;

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31. "Housing project" means a project for the construction of any building, road, bridge or other structure in any part of India and a project for the execution of such other work (of whatever nature) as may be prescribed.

31a. Refer footnote No. 28 on page 218.

32. "Supporting manufacturer" means an Indian company or a person who is resident in India, manufacturing (including processing) goods or merchandise, and selling such goods or merchandise to Export/Trading House for the purposes of export.

33. For clarifications regarding export of cut and polished dimensional blocks, granite or other rocks, refer gist of Circular Nos. 693 & 729 given in sub-items (e) & (f) of item I on page 327.

(3) the sale proceeds of goods or merchandise exported out of India are received in, or brought into, India by the assessee [other than assessees referred to in 1(b) & 1(c) on page 219] in convertible foreign exchange[34] within a period of six months from the end of the previous year or within such further period as may be extended by the competent authority[35].

Sale proceeds will 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; and

(4) "Export turnover" for the purposes of this section means the sale proceeds received in, or brought into, India by the assessee in convertible foreign exchange in accordance with condition (3) above 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.

Percentage of deduction:

(i) For assessee other than supporting manufacturer:

In computing the total income (excluding any income not charged to tax under the Income-tax Act), a deduction equal to **specified percentage**[36] of the profits* derived from the export of such goods or merchandise.

However, if the assessee being a holder of an Export House Certificate or a Trading House Certificate certifies in the prescribed Form No. 10CCAB that in respect of the amount of export turnover specified therein, the deduction 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 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.

Assessee will have to furnish report of audit in the prescribed Form No. 10CCAC along with the return of income [Section 80HHC(4)].

*The profits derived from the export of goods or merchandise out of India shall be—

(a) where the exported goods/merchandise are manufactured or processed by the assessee, the profits derived from such export shall be the amount which bears to the profits of the business[37], the same proportion as the export turnover of such goods bears to the total turnover[38] of the business carried on by the assessee,

(b) where the exported goods are not manufactured or processed by the assessee (i.e., 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[39] and indirect costs[40] attributable to export of trading goods,

(c) where the exported goods consist of both types of goods referred to in (a) & (b) above, the profits derived from such export shall—

(i) in respect of goods/merchandise manufactured or processed by the assessee, be the amount which bears to the adjusted profits of the business[41], the same proportion as the adjusted export turnover[42] in respect of such goods bears to the adjusted total turnover[43] 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 costs[39] and indirect costs[40] attributable to export of such trading goods.

However, the profits computed under (a), (b) and (c) above shall be further increased by the amount which bears to 90% of any sum referred to in clause (iiia) [i.e., profit on sale of import licences other than licence acquired from any other person], clause (iiib) [i.e., cash compensatory support] & clause (iiic) [i.e., duty of customs or excise repaid or repayable as drawback], of section 28, the same proportion as the export turnover bears to the total turnover of business [Refer *Example* on page 221].

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34. Refer footnote No. 27 on page 218.

35. "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 & dealings in foreign exchange.

36. Specified percentage of deduction u/s. 80HHC is as under—

(a)	**for assessment year 2001-02**	**...**	**80% of such profits;**
(b)	**for assessment year 2002-03**	**...**	**70% of such profits;**
(c)	**for assessment year 2003-04**	**...**	**50% of such profits;**
(d)	**for assessment year 2004-05**	**...**	**30% of such profits;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction from such profits.**

37. "profits of the business" means the profits of the business as computed under the head "Profits and gains of business or profession" and reduced by—

(1) 90% of any sum referred to in clauses (iiia), (iiib) & (iiic) of section 28 or of 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.

38. "total turnover" shall not include:

(a) freight or insurance attributable to the transport of the goods or merchandise beyond the customs station as defined in the Customs Act, 1962; and

(b) cash compensatory support, profit on sale of import entitlement licences and any duty of customs or excise re-paid or re-payable as drawback (these export incentives will, however, be included in the profits of the business).

39. "direct costs" means costs directly attributable to the exported trading goods including the purchase price of such goods.

40. "indirect costs" means costs, not being direct costs, allocated in the ratio of the export turnover of trading goods to the total turnover.

41. "adjusted profits of the business" means the profits of the business as reduced by the profits derived from the business of exported trading goods as computed in (b) above.

42. "adjusted export turnover" means export turnover as reduced by export turnover in respect of trading goods.

43. "adjusted total turnover" means the total turnover of the business as reduced by the export turnover in respect of trading goods.

(ii) For assessee being supporting manufacturer:

In computing the total income (excluding any income not charged to tax under the Income-tax Act), a deduction equal to **specified percentage**[44] of the profits§ derived by the supporting manufacturer from sale of goods or merchandise to the Export/Trading House for the purposes of export and in respect of which a certificate has been issued by the Export/Trading House.

Assessee will have to furnish report of audit in the prescribed Form No. 10CCAC/certificate in prescribed Form No. 10CCAB received from Export/Trading House, along with the return of income [Section 80HHC(4A)].

§**(A)** In a case where the business carried on by the supporting manufacturer **does not consist exclusively of sale of goods or merchandise to Export/Trading House,** the profits derived by a supporting manufacturer from the sale of goods or merchandise to Export/Trading House shall be the amount which bears to the profits of the business[45] the same proportion as the turnover in respect of sale to the Export/Trading House bears to the total turnover of the business of the supporting manufacturer.

(B) In a case where the business carried on by the supporting manufacturer **consists exclusively of sale of goods or merchandise to Export/Trading House**, the profits derived by a supporting manufacturer from the sale of such goods or merchandise shall be the profits of the business[45].

For the clarifications issued by the Board in respect of provisions of section 80HHC, refer circulars given in sub-item 'I' of item 'I' on page 327.

The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80HHC, where the approval of the competent authority[46] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is received in, or brought into, India [Section 155(13)].

EXAMPLE FOR COMPUTATION OF DEDUCTION U/S. 80HHC:

For the financial year ending 31-3-2004 (assessment year 2004-05), Mr. A's only source of income is from the proprietory export business as under:

Trading/Manufacturing-Cum-Profit & Loss Account

To,	Rs.	Rs.	By,	Rs.	Rs.
Purchase in respect of:			Sales (Export turnover):		
Trading goods (Export) ..	5,00,000		Trading goods (F.O.B. Export)	6,00,000	
Raw materials for manufacturing (Export)	6,00,000	11,00,000	Manufactured goods (F.O.B. Export)	10,00,000	16,00,000
Direct costs for manufacturing (export) ..		2,00,000			
Gross profit carried over		3,00,000			
Total ..		16,00,000	Total ..		16,00,000
To,			By,		
Indirect costs		2,00,000	Gross profit brought over		3,00,000
Net profit for the year		5,00,000	Receipts for brokerage, commission, interest, rent, etc.		1,00,000
			Profit on sale of import licences (purchased from other persons)	1,00,000	
			Profit on sale of import licences (not purchased from any other person) & Duty drawback ..	2,00,000	3,00,000
Total ..		7,00,000	Total ..		7,00,000

(1) Computation of the profits of business under the head "Profits and gains of business or profession":

Net profit for the year as per Profit & Loss Account.			Rs. 5,00,000
Add: Disallowables under sections 28 to 44DA, say.			Rs. 10,000
Business income under the head "Profits & gains of business or profession"		(A)	Rs. 5,10,000
Computation of 'profits of the business' for the purposes of section 80HHC [Vide Explanation (baa) to section 80HHC]:			
Profits of the business computed under the head "Profits and gains of business or profession" [Refer (A)]			Rs. 5,10,000
Less: 90% of the following sums [Vide *Explanation* (baa)(1) to section 80HHC]:			
Receipts for brokerage, commission, interest, rent, etc.	Rs. 1,00,000		
Profit on sale of import licences (including purchased from other persons) and Duty drawback	Rs. 3,00,000		
	Rs. 4,00,000		
90% of Rs. 4,00,000			Rs. 3,60,000
Profits of the business ..		(B)	Rs. 1,50,000

44. Specified percentage is as stated in footnote No. 36 on page 220.

45. Refer footnote No. 37 on page 220.

46. Refer footnote No. 35 on page 220.

(2) Computation of deduction u/s. 80HHC:

(a) In respect of trading goods (exported):

Export turnover (F.O.B.) of trading goods			Rs. 6,00,000
Less: Direct costs (i.e., purchase price of exported trading goods)			Rs. 5,00,000
			Rs. 1,00,000
Less: Indirect costs	Rs. 2,00,000		
Indirect costs is to be allocated in the following proportion: Rs. 2,00,000 (indirect costs) × Rs. 6,00,000 (turnover of trading goods exported) ÷ Rs. 16,00,000 (total turnover) = Rs. 75,000			Rs. 75,000
Deduction u/s. 80HHC in respect of trading goods (exported)		(C)	Rs. 25,000

(b) In respect of manufactured goods (exported):

(i) Profits of the business [Refer (B) on page 221]	Rs. 1,50,000		
(ii) Adjusted profits of the business: Rs. 1,50,000 [Profits of business. Refer (b)(i) above] *less* Rs. 25,000 [Profits derived from the business of trading goods (exported). Refer (C) above]	Rs. 1,25,000		
(iii) Adjusted export turnover: Rs. 16,00,000 (export turnover) *less* Rs. 6,00,000 (export turnover of trading goods).	Rs. 10,00,000		
(iv) Adjusted total turnover: Rs. 16,00,000 (total turnover) *less* Rs. 6,00,000 (export turnover of trading goods)	Rs. 10,00,000		
Deduction u/s. 80HHC for export of manufactured goods: Rs. 1,25,000 [adjusted profits of the business. Refer (b)(ii) above] × Rs. 10,00,000 [adjusted export turnover. Refer (b)(iii) above] ÷ Rs. 10,00,000 [adjusted total turnover. Refer (b)(iv) above] = Rs. 1,25,000		(D)	Rs. 1,25,000

(c) Profits computed under (a) & (b) above is to be further increased under the proviso to section 80HHC (3):

90% of the profit on sale of import licences (other than purchased from any other person) & Duty drawback in the ratio of export turnover to total turnover i.e., 90% of Rs. 2,00,000 is Rs. 1,80,000. Rs. 1,80,000 (90% of Rs. 2,00,000) × Rs. 16,00,000 (export turnover) ÷ Rs. 16,00,000 (total turnover) = Rs. 1,80,000		(E)	Rs. 1,80,000

(3) Computation of total (taxable) income:

Business income [Refer (A) on page 221]			Rs. 5,10,000
Less: Deduction u/s. 80HHC @30% of:			
In respect of trading goods (exported) [Refer (C) above]	Rs. 25,000		
In respect of manufactured goods (exported) [Refer (D) above]	Rs. 1,25,000		
In respect of profit on sale of import licences & Duty drawback [Refer (E) above]	Rs. 1,80,000		
	Rs. 3,30,000		
Deduction @ 30% of Rs. 3,30,000 [Refer footnote No. 36 on page 220]			Rs. 99,000
Total (taxable) income			Rs. 4,11,000

Notes: (1) The sale proceeds in respect of export turnover Rs. 16,00,000 has been received in convertible foreign exchange on or before 30-9-2004.

(2) Export turnover is F.O.B. and does not include freight or insurance attributable to transportation of goods beyond customs station.

(3) 90% of the profit on sale of import licences is not to be further increased under the proviso to section 80HHC(3) if the said import licences are acquired from any other person i.e., not being acquired under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947.

(xvi) Deduction in respect of earnings in convertible foreign exchange:

(Refer Section 80HHD)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is either an Indian company or a person who is resident in India;

(2) the assessee is engaged in the business of:

(a) a hotel approved by the prescribed authority[47], or

(b) a tour operator approved by the prescribed authority[47], or

(c) 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 of the Foreign Exchange Regulation Act, 1973;

(3) (a) the receipt in relation to services provided to foreign tourists (other than services by way of sale in any shop owned or managed by the assessee) are 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 may be extended by the competent authority[48],

(b) any payment received by an assessee engaged in the business of hotel/tour operator/travel agent, in Indian currency obtained by conversion of foreign exchange brought into India through an authorised dealer, from another hotelier, tour operator or travel agent, as the case may be, on behalf of foreign tourists, shall be deemed to have been received by the assessee in convertible foreign exchange if the person making payment furnishes to the assessee a certificate in the prescribed Form No. 10CCAE indicating the amount received in foreign exchange, its conversion into Indian currency and such other particulars as may be prescribed; and

(4) the assessee furnishes report of audit in the prescribed Form No. 10CCAD along with the return of income.

Percentage of deduction:

(a) **Specified percentage**[49] of the profits* (as computed under the head "Profits and gains of business or profession") derived from services provided to foreign tourists, *plus*

(b) so much of the amount out of the remaining profits referred to in (a) as is debited to the profit and loss account of the previous year in respect of which deduction is claimed and credited to a "reserve account" to be utilised for the purposes of business as explained below†.

*The 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 condition (3) above [in the case of the first recipient of convertible foreign exchange, receipts specified in condition (3)(a) as reduced by any payment, referred to in condition (3)(b), made by him] bear to the total receipts of the business.

†(A) The amount credited to "reserve account" is required to be utilised by the assessee before the expiry of a period of 5 years next following the previous year in which the amount was credited for the purposes of—(a) construction of approved new hotels or expansion of facilities in the existing approved hotels; or (b) purchase of new cars/coaches by approved tour operator or by travel agent; or (c) purchase of sports equipment for mountaineering, trekking, golf, river-rafting and other sports in or on water; or (d) construction of conference or convention centres; or (e) provision of such new facilities, as may be notified, for the growth of Indian tourism; or (f) subscription to equity shares forming part of any eligible issue of capital[50] made by a public company [Section 80HHD(4)].

However, if any of the aforesaid activities [i.e., (a) to (e) of (A) above] results in creation of any asset owned by the assessee outside India, such asset shall be created only after obtaining prior approval of the prescribed authority.

(B) Where any amount credited to the "reserve account" has been utilised for any purpose other than those referred to in (A) above, then the amount so utilised shall be deemed to be the profits in the year of utilisation and shall be charged to tax accordingly. Similarly, where any amount credited to the "reserve account" has not been utilised in the manner specified in (A), the amount not so utilised shall be deemed to be the profits in the year immediately following the period of 5 years specified in (A) and shall be charged to tax accordingly.

Where any amount credited to the "reserve account" has been utilised for subscription to any equity shares referred to in (f) of (A), the lock-in-period of investment in such equity shares of eligible issue[50] will be three years. If such equity shares (in whole or in any part) are transferred or converted into money by the assessee at any time within a period of three years from the date of its acquisition, the aggregate

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47. The prescribed authority is the Director General, in the Directorate General of Tourism, Government of India [Refer Rule 18BBA (5)].

48. "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.

49. Specified percentage of deduction u/s. 80HHD is as under —

(a) for assessment year 2001-02	**...**	**40% of such profits, *plus*, so much of the amount not exceeding 40% of the profits transferred to reserve account;**
(b) for assessment year 2002-03	**...**	**30% of such profits, *plus*, so much of the amount not exceeding 30% of the profits transferred to reserve account;**
(c) for assessment year 2003-04	**...**	**25% of such profits, *plus*, so much of the amount not exceeding 25% of the profits transferred to reserve account;**
(d) for assessment year 2004-05	**...**	**15% of such profits, *plus*, so much of the amount not exceeding 15% of the profits transferred to reserve account;**
(e) from assessment year 2005-06 and onwards	**...**	**No deduction from such profits/amount transferred to reserve account.**

50. "Eligible issue of capital" means 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 : (a) business of setting up and running of new hotels approved by the prescribed authority; or (b) business of providing notified new facility for the growth of tourism in India [*Explanation* to section 80HHD].

amount so utilised in respect of such equity shares will be deemed to be the profits of the previous year in which the equity shares are transferred or converted into money [Section 80HHD(5A)].

Notes: (1) Where a deduction u/s. 80HHD(1) is claimed and allowed u/s. 80HHD(1) in respect of profit derived from the business of a hotel, such part of profits will not qualify to that extent for deduction for any assessment year under any other provisions of Chapter VI-A under the heading "C", and will in no case exceed the profits and gains of such hotel.

(2) The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80HHD, where the approval of the competent authority[51] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is received in, or brought into, India [Section 155(13)].

(xvii) Deduction in respect of profits from export of computer software, etc.:

(Refer Section 80HHE)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) (a) The assessee is either an Indian company or a person (other than a company) who is resident in India, or

(b) the assessee is a supporting software developer[52], who has during the previous year, developed and sold computer software to an exporting company[53] subject to the condition that a certificate in a prescribed Form No. 10CCAG has been issued by the exporting company certifying that in respect of export turnover specified therein, the exporting company has not claimed deduction u/s. 80HHE. The said certificate is to be certified by the auditor of the exporting company. The certificate received from the exporting company is to be furnished with the return of income by the supporting software developer;

(2) the assessee, referred to in (1)(a) above, is engaged in the business of,—

(a) export out of India of "computer software"[54] or its transmission from India to a place outside India by any means,

(b) providing technical services outside India in connection with the development or production of "computer software"[54].

The profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India [*Explanation* to section 80HHE(1)]; and

(3) the consideration in respect of computer software referred to in condition (2) above 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 may be extended by the competent authority[55]. However, the said consideration will 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.

Percentage of deduction:

(i) For assessee other than supporting software developer:

Deduction equal to **specified percentage**[56] of the profits derived by the assessee from business referred to in condition (2) above. For this purpose, profits derived from the business shall be the amount which bears to the profits of the business[57], the same proportion as the export turnover[58] bears to the total turnover[59] of the business carried on by the assessee.

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51. Refer footnote No. 55 hereafter.

52. "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[53] for the purposes of export.

53. "Exporting company" means a company referred to in section 80HHE(1) making actual export of computer software.

54. "Computer software" means: (a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or (b) any customised electronic data or any notified product or service of similar nature [refer Notification No. S.0. 890 (E), dt. 26-9-2000; 245 ITR (St.) 102], which is transmitted or exported from India to a place outside India by any means.

55. "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.

56. Specified percentage of deduction u/s. 80HHE is as under—

(a)	**for assessment year 2001-02**	**...**	**80% of such profits;**
(b)	**for assessment year 2002-03**	**...**	**70% of such profits;**
(c)	**for assessment year 2003-04**	**...**	**50% of such profits;**
(d)	**for assessment year 2004-05**	**...**	**30% of such profits;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction from such profits.**

57. "Profits of the business" means profits of the business as computed under the head "Profits and gains of business or profession" as reduced by—

(a) 90% 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.

58. "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 condition (3) above, 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.

59. "Total turnover" shall not include—

(a) cash compensatory support, profit on sale of import entitlement licences and any duty of customs or excise repaid or repayable as drawback,
(b) any freight, telecommunication charges or insurance attributable to the delivery of the computer software outside India, and
(c) expenses, if any, incurred in foreign exchange in providing the technical services outside India.

However, if the assessee being a company (i.e., exporting company) engaged in the export out of India of computer software issues a certificate in the prescribed Form No. 10CCAG, that in respect of the amount of the export specified therein, the deduction 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.

Assessee will have to furnish report of audit in the prescribed Form No. 10CCAF alongwith the return of income.

Note: Where a deduction u/s. 80HHE (1) is claimed and allowed in respect of the business referred to in condition (2) on page 224 for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for same or any other assessment year.

(ii) For assessee being supporting software developer:

Deduction equal to **specified percentage**[60] of the profits* derived by the supporting software developer from developing and selling of computer software to the exporting company for the purpose of export and in respect of which a certificate in the prescribed Form No. 10CCAG has been issued by the exporting company.

Assessee will have to furnish report of audit in the prescribed Form No. 10CCAF/certificate in the prescribed Form No. 10CCAG received from exporting company, along with the return of income.

*(A) In a case where the business carried on by the supporting software developer **does not consist exclusive of developing and selling of computer software to one or more exporting companies,** the amount which bears to the profits of the business[61], 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 supporting software developer.

(B) In a case where the business carried on by the supporting software developer **consists exclusively of developing and selling computer software to one or more exporting companies** solely engaged in exports, the profits of such business[61].

Note: The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80HHE, where the approval of the competent authority[62] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is received in, or brought into, India [Section 155(13)].

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

(Refer Section 80HHF)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is either an Indian company or a person (other than a company) who is resident in India;

(2) the assessee is engaged in the business of export or transfer by any means out of India, of any film software[63], television software[63], music software[63], television news software[63] including telecast rights[63] (hereafter referred to as the software or software rights) provided such business is not prohibited by law;

(3) consideration in respect of software or software rights is received in, or brought into, India by the assessee in convertible foreign exchange[63] within a period of six months from the end of the previous year or within such further period as the competent authority[64] may allow in this behalf; and

(4) the assessee furnishes in the prescribed Form No. 10CCAI alongwith the return of income, the report of an accountant, as defined in the *Explanation* to section 288(2), certifying that the deduction has been correctly claimed in accordance with the provisions of section 80HHF.

Percentage of deduction

Deduction equal to **specified percentage**[65] of the profits derived by the assessee from business referred to in condition (2) above. For this purpose profits derived from the business shall be the amount which bears to the profits of the business[66], the same proportion as the export turnover[67] bears to the total turnover[68] of the business carried on by the assessee.

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60. Specified percentage is as stated in footnote No. 56 on page 224.

61. Refer footnote No. 57 on page 224.

62. "Competent authority" is defined to mean 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.

63. For the definition of "film software", "television software", "music software", "television news software", "telecast rights" & "convertible foreign exchange", refer *Explanation* to section 80HHF.

64. Refer footnote No. 62 above.

65. Specified percentage of deduction u/s. 80HHF is as under —

(a)	**for assessment year 2001-02**	**...**	**80% of such profits;**
(b)	**for assessment year 2002-03**	**...**	**70% of such profits;**
(c)	**for assessment year 2003-04**	**...**	**50% of such profits;**
(d)	**for assessment year 2004-05**	**...**	**30% of such profits;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction from such profits.**

66. "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) 90% 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.

67. "Export turnover" means the consideration in respect of software or software rights received in, or brought into, India by the assessee in the convertible foreign exchange in accordance with condition (3) above, 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.

68. 'Total turnover' shall not include—
(a) cash compensatory support, profit on sale of import entitlement licence and any duty of customs or excise repaid or repayable as drawback,
(b) any freight, telecommunication charges or insurance attributable to the delivery of software or software rights outside India, and
(c) expenses, if any, incurred in foreign exchange in providing the technical services outside India.

Note: Where a deduction u/s. 80HHF(1) is claimed and allowed in respect of business referred to in condition (2) on page 225 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.

(xix) Deduction in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.:

(Refer Section 80-IA)

Assessment year 2001-02 & onwards:

Section 80-IA provides for deduction in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc., etc. For salient features of this section, refer Chart-I on page 234 in relation to assessment year 2004-05 and subsequent years [for assessment year 2001-02, refer Chart-I on page 221 of ITRR 2001-02 (63rd Year of Publication); for assessment year 2002-03, refer Chart-I on page 231 of ITRR 2002-03 (64th Year of Publication); for assessment year 2003-04, refer Chart-I on page 229 of ITRR 2003-04 (65th Year of Publication)].

(xx) Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings:

(Refer Section 80-IB)

Assessment year 2001-02 & onwards:

Section 80-IB provides for deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings. For salient features of this section, refer Chart-II on pp. 235-236 in relation to assessment year 2004-05 and subsequent years [for assessment year 2001-02, refer Chart-II on page 222 of ITRR 2001-02 (63rd Year of Publication); for assessment year 2002-03, refer Chart-II on page 232 of ITRR 2002-03 (64th Year of Publication); for assessment year 2003-04, refer Chart-II on pp. 230-231 of ITRR 2003-04 (65th Year of Publication)].

(xxi) Special provisions in respect of certain undertakings or enterprises in certain special category States:

(Refer Section 80-IC)

Assessment years 2004-05 & 2005-06:

Conditions:

Deduction is allowable in respect of profits and gains derived by an undertaking or an enterprise in the State of Sikkim, Himachal Pradesh/Uttaranchal and any of the North-Eastern States[69] subject to conditions that—

1. The undertaking or enterprise has begun or begins to manufacture or produce any article or thing–

   (a) specified in the Fourteenth Schedule or where such undertaking or enterprise undertakes substantial expansion[70], during the period specified in condition (2),

   (b) not being any article or thing specified in the Thirteenth Schedule or where such undertaking or enterprise undertakes substantial expansion[70], during the period specified in condition (2), in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as is notified[69a] by the Board in accordance with the scheme framed and notified by the Central Government;

2. the specified period referred to in condition (1)(a) & (1)(b) above,—

   (a) in the State of Sikkim, is the period beginning on 23-12-2002 and ending before 1-4-2012,

   (b) in the State of Himachal Pradesh/Uttaranchal, is the period beginning on 7-1-2003 and ending before 1-4-2012, and

   (c) in any of the North-Eastern States[69], is the period beginning on 24-12-1997 and ending before 1-4-2007;

3. the undertaking/enterprise should not be formed as a result of splitting up, or the reconstruction, of an existing business and it is not formed by the transfer to a new business of machinery or plant previously used for any purpose; and

4. the conditions specified in section 80-IA(5) & 80-IA(7) to (12) are applicable to eligible undertaking/enterprise u/s. 80-IC.

Percentage of deduction:

(1) In the case of an undertaking or enterprise in the State of Sikkim and any of the North-Eastern States[69], is @100% of such profits and gains for 10 assessment years commencing with the initial assessment year[71], and

(2) In the case of undertaking or enterprise in the State of Himachal Pradesh/Uttaranchal, is @100% of such profits and gains for 5 assessment years commencing with the initial assessment year[71] and thereafter @25% [@30%, in the case of a company] for next five assessment years, of the profits and gains.

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69. "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.

69a. For industrial estate or industrial area notified in: (a) the State of Sikkim [Refer Noti. S.O. No. 169(E), dt. 6-2-2004: 266 ITR (St.) 5; & (b) the States of Assam, Tripura, Meghalaya, Mizoram, Nagaland, Manipur or Arunachal Pradesh [Refer Noti. S.O. No. 400(E), dt. 26-3-2004: 266 ITR (St.) 118].

70. "substantial expansion" is defined to mean increase in the investment in the plant and machinery by atleast 50% of the book value of plant and machinery, before taking depreciation in any year, as on the first day of the previous year in which the substantial expansion is undertaken.

71. "initial assessment year" is defined to mean the assessment year relevant to the previous year in which the undertaking or the enterprise begins to manufacture or produce articles or things, or commences operation or completes substantial expansion.

Note: In computing the total income of the undertaking or enterprise, which has claimed deduction u/s. 80-IC, *no* deduction will be allowed under any other section contained in Chapter VI-A or in sections 10A or 10B, in relation to its profits and gains. No deduction u/s. 80-IC shall be allowed to any undertaking or enterprise, where the total period of deduction inclusive of the period of deduction u/s. 80-IC, or under 2nd proviso to section 80-IB(4) or u/s. 10C, as the case may be, exceeds 10 assessment years.

(xxii) Deduction in respect of profits and gains from business of collecting and processing bio-degradable waste:

(Refer Section 80JJA)

Assessment years 2001-02 to 2005-06:

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 or producing bio-fertilizers, bio-pesticides or other biological agents or for producing bio-gas or making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee, a deduction @ 100% 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.

(xxiii) Deduction in respect of employment of new workmen:

(Refer Section 80JJAA)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The assessee is an Indian company whose gross total income includes profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing;

(2) the industrial undertaking is not formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking;

(3) the assessee has employed new regular workmen in the previous year. ''Regular workman'' does not include a casual workman or a workman employed through contract labour or a workman employed for a period of less than 300 days during the previous year. 'Workman' shall have the meaning assigned to it in section 2(s) of the Industrial Disputes Act, 1947; and

(4) the assessee furnishes along with the return of income the report of the accountant [as defined in the *Explanation* to section 288] in the prescribed Form No. 10DA.

Percentage of deduction:

@ 30% of the additional wages† paid to the new regular workmen employed in the previous year. The deduction is available for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.

† ''Additional wages'' means the wages paid to the new regular workman in excess of 100 workmen employed during the previous year. However, in the case of an existing undertaking, where the increase in the number of regular workman employed during the previous year is less than 10% of existing number of workmen employed in such undertaking as on the last day of the preceding year, additional wages shall be taken as 'nil' and no deduction will be allowed u/s. 80JJAA.

(xxiv) Deductions in respect of interest on certain securities, dividends, etc.:

(Refer Section 80L)

Assessment years 2001-02 to 2005-06:

Conditions:

(1) The assessee is either an individual or a Hindu undivided family,

(2) where the income is derived from any investments or deposits specified below held by, or on behalf of a firm, an association of persons or a body of individuals, the deduction under this section will not be allowed in respect of such income in the assessment of a partner of the firm or a member of the association or body, and

(3) income in respect of investments and deposits qualifying for deduction are:

(a) interest on Government securities*, interest on National Savings Certificate VI, VII and VIII issue, National Development Bonds & 7-year National Rural Development Bonds,

(b) interest on Post Office Time Deposit Accounts, the Post Office Recurring Deposit Accounts, and National Savings Scheme referred to in National Savings Scheme Rules, 1992 [Notification No. 820(E), dt. 21-10-92: 198 ITR (St.) 133],

(c) dividends from any Indian company (for assessment year 2003-04§),

(d) dividends from any co-operative society,

(e) income in respect of units of the Unit Trust of India other than the income arising from transfer of such units (for assessment year 2003-04§§),

(f) interest on deposits[72] with a banking company, and co-operative Bank,

* For additional deduction, refer page 228.

§ & §§ Refer footnote marked § & §§ on page 228.

72. Accrued interest on reinvestment deposit scheme of banks qualifies for deduction [Vide Circular No. 243, dt. 22-6-78: 114 ITR (St.) 29].

(g) interest on deposits with a co-operative society made by a member of the society,

(h) interest on deposits with Housing Boards, etc.,

(i) interest from deposits made under A.E.(C.D.) Act, and C.D.S.(I.T.P.) Act,

(j) interest on notified debentures of any co-operative society or any institution or any public sector company,

(k) interest on deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction u/s. 36(1)(viii),

(l) interest on deposits 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 and which is eligible for deduction u/s. 36(1)(viii),

(m) interest on deposits with Industrial Development Bank of India [Notification No. G.S.R. 86(E), dt. 29-2-1984],

(n) interest on deposits under National Deposit Scheme [Notification No. G.S.R. 453(E), dt. 15-6-1984],

(o) income in respect of units of a Mutual Fund specified u/s. 10(23D) other than the income arising from transfer of such units (for assessment year 2003-04§§),

(p) interest on deposits under Post Office (Monthly Income Account) Rules, 1987.

Limit of deduction:

Assessment year		*Maximum deduction*
2001-02	Under section 80L(1)	Rs. 12,000
2002-03	Under section 80L(1)	Rs. 9,000
2003-04 to 2005-06	Under section 80L(1)	Rs. 12,000

***Additional deduction:**

2001-02 to 2005-06	In respect of interest on security of the Central/State Government [Vide proviso to section 80L(1)]	Rs. 3,000

EXAMPLES

	Nature of income	Amount Rs.	Deduction under section	Assessment years 2004-05 Rs.	2003-04 Rs.
(1)	Dividend income	† 2,000	-/80L(1)(iv)	†Nil	§2,000
	Interest on bank deposits	9,000	80L(1)(vi)	9,000	8,000
	Income from units of UTI	†† 2,000	-/80L(1)(v)	††Nil	§§2,000
	Aggregate amount	13,000	Deductions from gross total income	9,000	12,000
(2)	Dividend income	† 2,000	-/80L(1)(iv)	†Nil	§2,000
	Income from units of UTI & M. Fund	†† 3,000	-/80L(1)(v) & (va)	††Nil	§§3,000
	Interest on bank deposits	3,000	80L(1)(vi)	3,000	3,000
	Accrued interest on NSC VIII Issue	3,000	80L(1)(ia)	3,000	3,000
	Aggregate amount	11,000	Deductions from gross total income	6,000	11,000
(3)	Dividend income	† 2,000	-/80L(1)(iv)	†Nil	§2,000
	Interest on Govt. securities	16,000	80L(1)(i)	12,000	7,000
			80L(1)(i)	**3,000	**3,000
	Income from units of UTI	†† 3,000	-/80L(1)(v)	††Nil	§§3,000
	Aggregate amount	21,000	Deductions from gross total income	15,000	15,000

Note: In view of clarification by the Board that "the inter-se priority for adjustment to claim deduction under sub-section (1) and the provisos thereto will be at the option of the assessee" [Vide Para 29.8 of Circular No. 528, dt. 16-12-1988: 176 ITR (St.) 183].

† Dividend received amounting to Rs. 2,000, is declared, distributed or paid, on or after 31-3-2003, by the domestic company is to be excluded from total (taxable) income u/s. 10(34) from assessment year 2004-05 and onwards and not liable to tax irrespective of the quantum of said dividend income.

†† Income in respect of units: (a) of a Mutual Fund [specified u/s. 10(23D)]; (b) from the Administrator of the specified undertaking; and (c) from the specified company, is wholly exempt u/s. 10(35) from assessment year 2004-05 and onwards. For the definition of term "Administrator" and "specified company", refer footnote No. 5 & 6 on page 212.

** Read with proviso to section 80L(1).

§ Dividend declared, distributed or paid, on or after 1-4-2002, but on or before 31-3-2003, by the domestic company *is to be included in the gross total income* as section 10(33) is omitted w.e.f. 1-4-2003 (assessment year 2003-04).

§§ Income in respect of units of Unit Trust of India and of a Mutual Fund [specified u/s. 10(23D)] *is to be included in the gross total income* as section 10(33) is omitted w.e.f. 1-4-2003 (assessment year 2003-04 and onwards).

(xxv) Deduction in respect of certain incomes of offshore Banking Units:

(Refer Section 80LA)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The assesse is either a scheduled bank (other than a bank incorporated by or under the laws of a country outside India) or owning an offshore banking unit in a special economic zone;

(2) the income: (a) from an offshore banking unit in a special economic zone; (b) from the business referred to in section 6(1) of the Banking Regulation Act, 1949, with an undertaking located in a special economic zone or any other undertaking which develops, develops and operates or operates and maintains a special economic zone; (c) received in convertible foreign exchange, in accordance with the regulations made under the Foreign Exchange Management Act, 1999; and

(3) the assessee is required to furnish along with return of income: (a) in the prescribed Form No. 10CCF, the report of an accountant as defined in the *Explanation* to section 288(2), certifying that the deduction has been correctly claimed in accordance with section 80LA, and (b) a copy of the permission obtained u/s. 23(1)(a) of the Banking Regulation Act, 1949.

Percentage of deduction:

@ 100% of income referred to in condition (2) above for three consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission, u/s. 23(1)(a) of the Banking Regulation Act, 1949, was obtained, and thereafter @ 50% of such income for two consecutive assessment years.

Note: For the definition of the term ''convertible foreign exchange'', ''offshore Banking Unit'', ''scheduled bank'' and ''special economic zone'', refer *Explanation* to section 80LA.

(xxvi) Deduction in respect of certain inter-corporate dividends:

(Refer Section 80M)

Assessment year 2003-04[73]*:*

Conditions:

(1) The assessee is a domestic company, and

(2) The dividends is from another domestic company.

Amount of deduction:

So much of the amount of income by way of dividends received from another domestic company as does not exceed the amount of dividend distributed by the recipient domestic company on or before the due date for furnishing the return of income u/s. 139(1), will be deductible. Accordingly, where dividend distributed is equal to or more than dividend income received, the entire amount of dividend income will be deductible. Similarly, if no dividend is distributed, the entire amount of dividend income received will be taxable without any deduction. Where deduction u/s. 80M(1) is allowed in any previous year in respect of dividend distributed by the domestic company, no deduction shall be allowed in respect of such amount in any other previous year.

(xxvii) Deduction in respect of royalties, etc., received from certain foreign enterprises:

(Refer Section 80-O)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is either an Indian company or a person (other than a company) who is resident in India;

(2) any income received is 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;

(3) income referred to in condition (2) above is received in convertible foreign exchange[74] in India or 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.

However, income referred to above should be received in India within a period of six months from the end of the relevant previous year or within such extended period as may be allowed by the competent authority[75]; and

(4) The assessee claiming the deduction is required to furnish a certificate, in the prescribed Form No. 10HA, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

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73. Inter-corporate dividends is excludible under section 10(34) for and from assessment year 2004-05 and onwards. Consequently, section 80M is ommitted from the said assessment year.

74. "Convertible foreign exchange" will also include amounts received in non-convertible rupees from bilateral account countries and receipts in Indian rupees under Government to Government credit. Remittances from Nepal and Bhutan are, however, excluded [Vide Circular No. 575, dt. 31-8-90: 185 ITR (St.) 32].

75. "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 & dealings in foreign exchange.

Percentage of deduction:

Specified percentage[76] of income referred to in condition (2) is received in, or brought into, India, in accordance with condition (3), included in the gross total income.

For the clarification issued by the Board in respect of provisions of section 80-O, refer circulars given in sub-item 'O' of item 'I' on page 328.

Note: The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80-O, where the approval of the competent authority[76a] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is received in, or brought into, India [Section 155 (13)].

(xxviii) Deduction in respect of income of co-operative societies:

(Refer Section 80P)

(Refer page 252 for exemptions and example)

(xxix) Deduction in respect of royalty income, etc. of authors of certain books other than text books:

(Refer Section 80QQB)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The assessee is an individual resident in India, being an author[77];

(2) assessee's gross total income includes any income, derived in the exercise of his profession, on account of any lump sum[78] consideration for the assignment or grant of any of his interests in the copyright of any book[79] being a work of literary, artistic or scientific nature, or of royalty or copyright fees (received in lump sum or otherwise) in respect of such book;

(3) the assessee (i.e., author) is required to furnish a certificate in the prescribed Form No. 10CCD and duly verified by the person responsible for paying such income, along with the return of income, together with the particulars as may be prescribed; and

(4) where the income referred to in condition (2) above is earned outside India, the deduction is allowable to the extent of convertible foreign exchange brought into India by, or on behalf of, the author, within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority[80] may allow in this behalf. In respect of such income, the assessee is required to furnish a certificate in the prescribed Form No. 10H from the prescribed authority[80a] along with the return of income in the prescribed manner.

Amount of deduction:

@ 100% of income referred to in condition (2) above, subject to monetary limit of Rs. 3,00,000.

For calculating the deduction u/s. 800QQB, the amount of gross eligible income (i.e., before allowing expenses pertaining to such income) should not exceed 15% of the value of the books sold during the previous year. This condition is, however, not applicable where the royalty or copyright fees, is receivable in lump sum consideration in lieu of all rights of the author in the book.

Note: Where a deduction for any previous year is claimed and allowed in respect of eligible income u/s. 80QQB, no deduction in respect of such income shall be allowed under any other provision of the Income-tax Act in any assessment year.

(xxx) Deduction in respect of remuneration from foreign sources in the case of professors, teachers, etc.:

(Refer Section 80R)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) the assessee is an individual who is a citizen of India;

(2) the remuneration received is from any University or educational institution established outside India or any other association or body established outside India;

(3) the assessee is a professor, teacher or research worker; and

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76. Specified percentage of deduction u/s. 80-O is as under —

(a)	**for assessment year 2001-02**	**...**	**40% of such income so received in, or brought into, India;**
(b)	**for assessment year 2002-03**	**...**	**30% of such income so received in, or brought into, India;**
(c)	**for assessment year 2003-04**	**...**	**20% of such income so received in, or brought into, India;**
(d)	**for assessment year 2004-05**	**...**	**10% of such income so received in, or brought into, India;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction in respect of such income.**

76a. "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 & dealings in foreign exchange.

77. "author" is defined to include a joint author.

78. "lump sum", in regard to royalties or copyrights fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

79. "books" is defined not to include brouchures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools, tracts and other publications of similar nature, by whatever named called.

80. Refer footnote 76a above.

80a. Authorities prescribed under rule 29A(2) is 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) the assessee claiming the deduction is required to furnish a certificate, in the prescribed Form No.10H, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

Percentage of deduction:

Specified percentage[81] 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 within such further period as may be extended by the competent authority[82].

Note: The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80R, where the approval of the competent authority[82] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is brought into India [Section 155(13)].

(xxxi) Deduction in respect of professional income from foreign sources:

(Refer Section 80RR)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is an individual who is resident in India;

(2) he is either an author, playwright[83], artist[83] (includes photographers and T.V. Cameramen), musician, actor or sportsman;

(3) the income derived by him is in the exercise of his profession as stated in (2);

(4) the income is received either from the Government of a foreign State or any person not resident in India; and

(5) the assessee claiming the deduction is required to furnish a certificate, in the prescribed Form No. 10H, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

Percentage of deduction:

Specified percentage[84] of such professional 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 within such further period as may be extended by the competent authority[85].

Note: The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80RR, where the approval of the competent authority[85] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is brought into India [Section 155(13)].

(xxxii) Deduction in respect of remuneration from foreign employers:

(Refer Section 80RRA)

Assessment years 2001-02 to 2004-05:

Conditions:

(1) The assessee is an individual who is a citizen of India;

(2) the remuneration is received in foreign currency either from a foreign employer or an Indian concern for services to be rendered outside India;

(3) in the case of an individual:

(a) who is or was, immediately before undertaking such service, in the employment of the Central or any State Government, if such service is sponsored by the Central Government;

(b) who is a technician [as defined in the *Explanation* to section 80RRA] and the terms and conditions of his service outside India are approved[86] by the Central Government or the prescribed authority; and

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81. Specified percentage of deduction u/s. 80R & 80RRA(1) is as under —

(a)	**for assessment year 2001-02**	**...**	**60% of such remuneration brought into India;**
(b)	**for assessment year 2002-03**	**...**	**45% of such remuneration brought into India;**
(c)	**for assessment year 2003-04**	**...**	**30% of such remuneration brought into India;**
(d)	**for assessment year 2004-05**	**...**	**15% of such remuneration brought into India;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction in respect of such remuneration.**

82. For the definition of "competent authority", refer footnote No. 85 below.

83. The Board has clarified that, 'script writer' can be regarded as "playwright" and similarly "director" can be treated as an "artist" for the purposes of section 80RR. However, a producer would not be entitled to deduction u/s. 80RR, because he does not fall under any of the categories mentioned in the said section [Vide Circular No. 675, dt. 3-1-1994: 205 ITR (St.) 329].

84. Specified percentage of deduction u/s. 80RR is as under —

(a)	**for assessment year 2001-02**	**...**	**60% of such professional income brought into India;**
(b)	**for assessment year 2002-03**	**...**	**45% of such professional income brought into India;**
(c)	**for assessment year 2003-04**	**...**	**30% of such professional income brought into India;**
(d)	**for assessment year 2004-05**	**...**	**15% of such professional income brought into India;**
(e)	**from assessment year 2005-06 and onwards**	**...**	**No deduction for such professional income.**

85. "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 & dealings in foreign exchange.

86. For procedure regarding grant of approval u/s. 80RRA, refer Circular No. 705, dt. 20-6-95 [214 ITR (St.) 1].

(4) the assessee claiming the deduction is required to furnish a certificate, in the prescribed Form No. 10H, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of section 80RRA(1).

Percentage of deduction:

Specified percentage[87] 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 within such further period as may be extended by the competent authority[88].

Note: The Assessing Officer shall amend the order of assessment so as to allow the deduction u/s. 80RRA, where the approval of the competent authority[88] is received and the amount is brought into India later than the date of assessment. The time limit of four years for amending the order shall be counted from the end of the previous year in which such income is brought into India [Section 155 (13)].

(xxxiii) Deduction in respect of royalty on patents:

(Refer Section 80RRB)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The assessee is an individual resident in India and who is a patentee;

(2) the assessee (i.e., patentee) is in receipt of any income by way royalty in respect of a patent registered on or after 1-4-2003 under the Patents Act, 1970, and his gross total income includes royalty;

(3) the assessee (i.e., patentee) is required to furnish a certificate in the prescribed Form No. 10CCE duly signed by the prescribed authority [i.e., the Controller, referred to in section 1(b) of the Patents Act, 1970] along with the return of income together with particulars as may be prescribed; and

(4) where income referred to in conditions (2) above is earned outside India, deduction u/s. 80RRB is allowable to the extent of convertible foreign exchange brought into India by, or on behalf of, the patentee, within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority[89] may allow in this behalf. The deduction is subject to the condition that the assessee furnishes a certificate in the prescribed Form No. 10H from the authority or authorities, as may be prescribed[89a] along with the return of income.

Amount of deduction:

@ 100% of income referred to in condition (2) above, subject to monetary limit of Rs. 3,00,000.

Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the royalty income for the purpose of allowing deduction u/s. 80RRB shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.

NOTE: Where a deduction for any previous year is claimed and allowed in respect of eligible income u/s.80RRB, no deduction in respect of such income shall be allowed, under any other provision of the Income-tax Act in any assessment year. For the definition of the term "Controller", "patent", "patentee" and "royalty", refer *Explanation* to section 80RRB.

(xxxiv) Deduction in the case of a person with disability:

(Refer Section 80U)

Assessment years 2004-05 & 2005-06:

Conditions:

(1) The individual is resident in India;

(2) such individual, at any time during the previous year, is certified by the medical authority[90] to be a person with disability[91]; and

(3) he is required to furnish a copy of the certificate issued by the medical authority[90], in the prescribed form[92] along with the return of income u/s. 139, in respect of the assessment year for which the deduction is claimed. Where the condition of disability[93] requires reassessment of its extent after a period specified in the said certificate, deduction for subsequent assessment years will be allowed if a new certificate is obtained from the medical authority[90] in the prescribed form[92], and a copy thereof is furnished along with the return of income u/s. 139.

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87. Specified percentage of deduction u/s. 80RRA(1), refer footnote No. 81 on page 231.

88. Refer footnote No. 85 on page 231.

89. Refer footnote No. 85 on page 231.

89a. Refer footnote No. 80a on page 230.

90. Refer footnote No. 7 & 8a on page 212.

91. Refer footnote No. 3 & 8a on page 212.

92. Refer footnote No. 8 on page 212.

93. Refer para 2 of footnote No. 3 & 8a on page 212.

Amount of deduction:

Assessment years 2004-05 to 2005-06 . . . . Rs. 50,000* in computing the total income of such individual.

*Where such individual is a person with severe disability[94], the deduction will be Rs. 75,000, instead of Rs. 50,000 [Proviso to section 80U(1)].

(xxxv) Deduction in the case of permanent physical disability (including blindness):

(Refer Section 80U)

Assessment years 2001-02 to 2003-04†:

† From assessment year 2004-05 and onwards, deduction in the case of a person with disability will be allowed under substituted section 80U [Refer preceding item (xxxiv)].

Conditions:

(1) The individual is resident in India;

(2) (a) he is totally or partially blind as specified in rules[95] framed by the Board, or

(b) he is subject to or suffers from a permanent physical disability specified in rules[95] framed by the Board, or

(c) he is subject to mental retardation to the extent specified in the rules[95] framed by the Board;

(3) he produces a certificate before the Assessing Officer in respect of the first assessment year for which deduction is claimed:

(a) in the case referred to in (2)(a), as to his blindness from an oculist[96],

(b) in the case referred to in (2)(b), as to his permanent physical disability from a physician[96]/a surgeon[96],

(c) in the case referred to in (2)(c), as to his mental retardation from a psychiatrist[96].

Amount of deduction:

Assessment years 2001-02 to 2003-04 . . Rs. 40,000 in computing the total income of such individual.

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94. Refer para 3 of footnote No. 3 & 8a on page 212.

95. The text of Rule 11D* is as under:

(i) permanent physical disability shall be regarded as a permanent physical disability if it falls in any one of the categories specified below, namely:-

(a) permanent physical disability of more than 50 per cent. in one limb; or
(b) permanent physical disability of more than 60 per cent. in two or more limbs; or
(c) permanent deafness with hearing impairment of 71 decibels and above; or
(d) permanent and total loss of voice;

(ii) mental retardation shall be regarded as a mental retardation if intelligence quotient is less than 50 on a test with a mean of 100 and a standard deviation of 15 such as the Wechsle scale;

(iii) blindness shall be regarded as a permanent physical disability, if it is incurable and falls in any one of the categories specified below, namely:-

All with corrections

Better eye		Worse eye
(a) 6/60-4/60 or Field of vision 110-20	. . .	3/60 to Nil
(b) 3/60 to 1/60 or Field of vision 100	. . .	F.C. at 1 foot to Nil
(c) F.C. at 1 foot to Nil or Field of vision 100	. . .	F.C. at 1 foot to Nil or Field of vision 100
(d) Total absence of sight	. . .	Total absence of sight.

* W.e.f. 1-4-2003, rule 11D is omitted.

96. The required certificate should be from an oculist or a physician or a surgeon or a psychiatrist, as the case may be, working in a Government hospital [as defined in the *Explanation* to section 80DD (refer footnote No. 9 on page 213)]. However, this requirement will not apply in the case of an individual who has already obtained and furnished a certificate before the Assessing Officer in relation to assessment year 1991-92 and earlier years [Refer 2nd proviso to section 80U].

CHART I: FOR DEDUCTION U/S. 80-IA IN CASE OF INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS/ENTERPRISES: (Assessment year 2004-05[1] and onwards)[1a]

Nature of business activity	*Period of commencement of operation*	*No. of consecutive assessment years for which deduction admissible*	*Rate of deduction from profits & gains@*
1. An enterprise carrying on the business of: (a) developing or (b) operating & maintaining or (c) developing, operating & maintaining any infrastructure facility[2] which fulfills both the conditions prescribed in sec. 80-IA(4)(i)(a)&(b)	on or after 1-4-1995	10 out of 15[3] initial assessment years[5]	100%[4] for 10 consecutive assessment years.
2. An undertaking providing basic or cellular telecommunication services, including radio paging, domestic satellite service, network of trunking, broadband network & internet services [Sec. 80-IA(4)(ii)]	1-4-1995 to 31-3-2004	10 out of 15 initial assessment years[5]	100%[4] for first 5 cons. asst. years & 30%[4] for the remaining 5 cons. asst. years.
3. An undertaking which develops, develops & operates or maintains & operates a notified industrial park or special economic zone in accordance with notified scheme i.e., (a) Industrial Park Scheme, 2002 [vide Noti. No. 354(E), dt. 1-4-02: 255 ITR (St.) 125]; (b) Special Economic Zones [vide Noti. No. 100(E), dt. 24-1-02: 255 ITR (St.) 107] [Sec. 80-IA(4)(iii)]	1-4-1997 to 31-3-2006	10 out of 15 initial assessment years[5]	100%[4] for 10 consecutive assessment years.
4. An undertaking set up in any part of India for generation or generation and distribution of power [Sec. 80-IA(4)(iv)(a)]	1-4-1993 to 31-3-2006	10 out of 15 initial assessment years[5]	100%[4] for 10 consecutive assessment years.
5. An undertaking which starts transmission or distribution by laying a network of new transmission or distribution lines. Deduction is allowable only in relation to the profits derived from laying of such network of new lines for transmission or distribution [Sec. 80-IA(4)(iv)(b)]	1-4-1999 to 31-3-2006	10 out of 15 initial assessment years[5]	100%[4] for 10 consecutive assessment years.

Note: The conditions required to be fulfilled by an undertaking referred to in section 80-IA(4)(iv) [Refer sec. 80-IA(3)] & u/s. 80-IB [Refer sec. 80-IB(2)]. For determining the quantum of deduction u/s. 80-IA(1)/80-IB(1), profits & gains of business (referred to in respective sub-section) is to be computed as if such business (i.e., referred to in respective sub-section) were the only source of income [Sec. 80-IA(5)/80-IB(13)]. Assessee is required to furnish a report of audit in the prescribed Form No. 10CCB† along with return of income [Sec. 80-IA(7)/80-IB (13)]. Where any amount of profits & gains of an undertaking/enterprise/hotel/ship, etc. is claimed and allowed u/s. 80-IA/80-IB for any asst. year, deduction to the extent of such profits & gains will not be allowed under any other provisions of Chapter VI-A under the heading "C-Deductions in respect of certain incomes", and in no case exceed the profit & gains of such industrial undertaking, etc. [Sec. 80-IA(9)/80-IB(13)].

† However, (1) in the case of multiplex theatres referred to in section 80-IB (7A) report of audit in respect of each multiplex theatre is in the prescribed Form No. 10CCBA; & (2) in the case of convention centre referred to in section 80-IB (7B) report of audit in respect of each eligible convention centre is in the prescribed Form No. 10CCBB.

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1. For deduction u/s. 80-IA in relation to: (a) assessment years 2000-01 & 2001-02, refer Chart-I on page 221 of ITRR 2001-02; (b) assessment year 2002-03, refer Chart-I on page 231 of ITRR 2002-03; and (c) for assessment year 2003-04, refer Chart-I on page 229 of ITRR 2003-04.

1a. For the notes on amendments made in section 80-IA by the Finance (No. 2) Act, 2004, refer para 8.3 on page 47.

2. "Infrastructure facility" is defined to mean: (A) a road including toll road, a bridge or a rail system; (B) a highway project including housing or other activities being an integral part of the highway project; (C) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and (D) a port*, airport, inland waterway or inland port [*Explanation* to section 80-IA(4)(i)]. Also refer gist of Circular No. 7 given in sub-item J(3) of item I on page 327.

* The Board has clarified that 'structures at ports for storage, loading and unloading, etc. will fall under the definition of "port" subject to conditions specified in the circular' [Circular No. 793, dt. 23-6-2000: 244 ITR (St.) 103].

3. In the case of an assessee who develops or operates & maintains or develops, operates & maintains any infrastructure facility referred to in (A) or (B) or (C) [and not (D)] of footnote No. 2 above, the number of consecutive assessment years for which deduction is admissible is 10 out of 20, instead of 10 out of 15, initial assessment years [Proviso to section 80-IA(2)] and, subject to condition u/s. 80-IA(6) in respect of infrastructure facility referred to in (B) of footnote No. 2 above.

4. of profits and gain derived from such business.

5. "Initial asst. year" means the assessment year relevant to previous year in which the enterprise/undertaking commences the activities specified therein [Sec. 80-IA(2)].

CHART II: FOR DEDUCTION U/S. 80-IB IN CASE OF INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS: (Assessment year 2004-05[6] and onwards)[6a]

Nature of business activity	*Period of commencement of operation*	*No. of consecutive assessment years for which deduction admissible*	*Rate of deduction from profits & gains@*
1. An industrial undertaking manufacturing or producing articles or things or operating such plant(s) [Sec. 80-IB(3)(i)]	1-4-1991 to 31-3-1995	12 (for co-op. society) & 10 (for others)	25%[7] (30%[7] in case of a company) for 10 (12 in case of co-op. society) initial asst. years[8].
2. A small-scale industrial undertking[9] manufacturing or producing articles or things or operating its cold storage plant (other than 3 to 6 below) [Sec. 80-IB(3)(ii)]	1-4-1995 to 31-3-2002	12 (for co-op. society) & 10 (for others)	25%[7] (30%[7] in case of a company) for 10 (12 in case of co-op. society) initial asst. years[8].
3. An industrial undertaking, in an industrially backward State$ specified in the Eighth Schedule, manufacturing or producing articles or things or operating its cold storage plant(s) [Sec. 80-IB(4)][10]	1-4-1993 to 31-3-2004	12 (for co-op. society) & 10 (for others)	100%[7] for 5 initial asst. years[8] & 25%[7] (30%[7] in case of a company) for the remaining asst. years[8].
4. An industry referred to in 3 above if located in notified* North-Eastern Region[9] [2nd proviso to Sec. 80-IB(4)][10]	1-4-1993 to 31-3-2004	10 (in all cases)	100%[7] for 10 initial asst. years[8].
5. An industrial undertaking manufacturing or producing articles or things or operating its cold storage plant(s) located in notified industrially backward district of category 'A'† [Sec. 80-IB(5)(i)]	1-10-1994 to 31-3-2004	12 (for co-op. society) & 10 (for others)	100%[7] for 5 initial asst. years[8] & 25%[7] (30%[7] in case of a company) for the remaining asst. years[8].
6. An industrial undertaking manufacturing or producing articles or things or operating its cold storage plant(s) located in notified industrially backward district of category 'B'† [Sec. 80-IB(5)(ii)]	1-10-1994 to 31-3-2004	12 (for co-op. society) & 8 (for others)	100%[7] for 3 initial asst. years[8] & 25%[7] (30%[7] in case of a company) for the remaining asst. years[8].
7. An industrial undertaking deriving profit from the business of setting up and operating a cold chain facility[9] for agricultural produce [Sec. 80-IB(11)]	1-4-1999 to 31-3-2004	12 (for co-op. society) & 10 (for others)	100%[7] for 5 initial asst. years[8] & 25%[7] (30%[7] in case of a company) for the remaining asst. years[8].
8. An undertaking which begins commercial production of mineral oil —			
(a) located in North-Eastern Region[9]	Before 1-4-1997	7 (in all cases)	100%[7] for 7 initial asst. years[8].
(b) located in any part of India [read with 1st proviso to sec. 80-IB(9)]	On or after 1-4-1997	7 (in all cases)	100%[7] for 7 initial asst. years[8].
9. An undertaking which begins refining of mineral oil [read with 2nd proviso to sec. 80-IB(9)]	On or after 1-10-1998	7 (in all cases)	100%[7] for 7 initial asst. years[8].
10. An undertaking developing & building housing projects approved *before 31-3-2005* by a local authority subject to the conditions that the size of plot of land has a minimum of 1 acre, and the residential unit has a built-up area not exceeding 1,000 sq. feet where such unit is situated within the cities of Delhi or Mumbai or within 25 kilometers from its municipal limits and 1,500 sq. feet at any other place [Sec. 80-IB(10)]	Development and construction of housing project commenced on or after 1-10-1998	—	100% of the profits derived in any previous year relevant to any assessment year from such housing project.

For the notes, refer page 234.

6. For deduction u/s. 80-IB in relation to: (a) assessment years 2000-01 & 2001-02, refer Chart-II on page 222 of ITRR 2001-02; (b) assessment year 2002-03, refer Chart-II on page 232 of ITRR 2002-03; and (c) for assessment year 2003-04, refer Chart-II on pp. 230-231 of ITRR 2003-04.

6a. For the notes on amendments made in section 80-IB by the Finance (No. 2) Act, 2004, refer para 8.4 on page 48.

7. of profits and gains from such business.

8. "Initial asst. year" means the assessment year relevant to the previous year in which the industrial undertaking/small-scale industrial undertaking/ business of ship/company/business of hotel, etc. commences the activities specified therein [Sec. 80-IB(14)(c)].

9. Refer footnote No. 15 on page 236.

10. From assessment year 2004-05 and onwards, deduction u/s. 80-IB(4) will not be allowed to those undertakings eligible for deduction u/s. 80-IC(2) [Refer item (xxi) on page 226] [vide 3rd proviso to section 80-IB(4)].

$ The Board has clarified that 'the word "State" includes Union Territories specified in the Eighth Schedule' [Circular No. 788, dt. 11-4-2000: 243 ITR (St.) 56].

* For notified industries in the North Eastern Region, refer Noti. No. S.O. 627(E), dt. 4-8-99 [239 ITR (St.) 47].

† For notified industrially backward district of Category 'A' & 'B', refer Noti. No. S.O. 440 (E), dt. 15-6-99 [238 ITR (St.) 14].

CHART II: FOR DEDUCTION U/S. 80-IB IN CASE OF INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS (CONTD.):
(Assessment year 2004-05[11] and onwards)[11a]

Nature of business activity	*Period of commencement of operation*	*No. of consecutive assessment years for which deduction admissible*	*Rate of deduction from profits & gains@*
11. The business of a ship which is owned by an Indian company & is wholly used for its business purposes and such ship was not owned or used in Indian territorial waters by a person resident in India [Sec. 80-IB(6)]	1-4-1991 to 31-3-1995	10 (in case of company only)	30%[12] for 10 initial asst. years[13].
12. Any company registered in India carrying on business of scientific research and development subject to conditions that its main object is of scientific and industrial research & development and is approved by the prescribed authority —			
(a) before 1-4-1999 [Sec. 80-IB (8)],	—	5 (in case of company only)	100%[12] for 5 initial asst. years[13].
(b) after 31-3-2000 but before 1-4-2004 and fulfils condition of rule 18DA of I.T. Rules [Sec. 80-IB(8A)]	—	10 (in case of company only)	100%[12] for 10 initial asst. years[13].
13. The business of a hotel[14] is approved by the prescribed authority —			
(a) located in a hilly area[15] or a rural area[15§] or a place of pilgrimage[15] or a notified place [Sec. 80-IB(7)(a)]	1-4-1990 to 31-3-1994	10 (in case of company only)	50%[12] for 10 initial asst. years[13].
(b) located in a hilly area[15] or a rural area[15§] or a place of pilgrimage[15] or a notified place and it is not located at a place within the municipal jurisdiction of Calcutta, Chennai, Delhi or Mumbai [1st proviso to sec. 80-IB(7)(a)]	1-4-1997 to 31-3-2001	10 (in case of company only)	50%[12] for 10 initial asst. years[13].
(c) located in any place other than those mentioned in (a) & (b) above [Sec. 80-IB(7)(b)]	1-4-1991 to 31-3-1995	10 (in case of company only)	30%[12] for 10 initial asst. years[13].
(d) located in any place other than those mentioned in (a) & (b) above and it is not located at a place within the municipal jurisdiction of Calcutta, Chennai, Delhi or Mumbai [Proviso to sec. 80-IB(7)(b)]	1-4-1997 to 31-3-2001	10 (in case of company only)	30%[12] for 10 initial asst. years[13].
14. An undertaking deriving profit from the integrated business of handling, storage & transportation of foodgrains [Sec. 80-IB(11A)]	On or after 1-4-2001	10 (in all cases)	100%[12] for 5 initial asst. years[13] & 25%[12] (30%[12] in the case of a company) for remaining asst. years[13].
15. The business of building, owning and operating a multiplex theatre[15] and is not located at any place within the municipal jurisdiction of Kolkatta, Chennai, Delhi or Mumbai, subject to fulfillment of conditions specified in section 80-IB (7A)(b)(ii)/(iii) [Sec. 80-IB (7A)]	Constructed during the period from 1-4-2002 to 31-3-2005	5 (in all cases)	50%[12] for 5 initial asst. years[13].
16. The business of building, owning and operating a convention centre[15], subject to fulfillment of conditions specified in section 80-IB (7B)(b)(ii)/(iii) [Sec. 80-IB(7B)]	Constructed during the period from 1-4-2002 to 31-3-2005	5 (in all cases)	50%[12] for 5 initial asst. years[13].

11. Refer footnote No. 6 on page 235.

11a. Refer footnote No. 6a on page 235.

12. of profits and gains from such business.

13. Refer footnote No. 8 on page 235.

14. Deduction u/s. 80-IB(7)(a) & 80-IB(7)(b) is subject to fulfilment of conditions prescribed in sec. 80-IB(7)(c).

15. For the definition of "cold chain facility", "convention centre", "hilly area", "multiplex theatre", "North-Eastern Region", "place of pilgrimage", "rural area" & "small-scale industrial undertaking", refer Sec. 80-IB(14).

§ For notified 'rural area', refer Notification No. 1013(E), dt. 6-10-99 [240 ITR (St.) 128].

REBATE OF (DEDUCTION FROM) INCOME-TAX:

CHAPTER VIII-A

Assessment years 2001-02 to 2005-06:

A rebate of (deduction from) income-tax is allowable under sections 88, 88B, 88C, 88D and 88E, of Chapter VIII-A. The manner and method of claiming rebate of (deduction from) income-tax is as under:

(1) Compute your gross total income [as reduced by long-term capital gains only in respect of rebate u/s. 88 and not for rebate u/s. 88B/88C/88D].

(2) From the gross total income as computed in (1) above, claim the deductions allowable under Chapter VI-A to determine the total (taxable) income.

(3) Compute income-tax (and not surcharge, if any) on the total income as determined in (2) above.

(4) Determine the aggregate amount of specified savings[1] made by you under section 88.

From assessment year 2003-04 and onwards:

The amount paid or deposited in the specified savings[1] in the previous year *need not be out of your income chargeable to tax* of the said year [Section 88(2)]. The specified savings can be paid or deposited by you at any time during the previous year. However, aggregate of such sums paid or deposited in the previous year should not exceed your total (taxable) income of the said year [Section 88(3)].

Up to assessment year 2002-03:

The amount paid or deposited in the specified savings in the previous year *should have been made* by you *out of your income chargeable to tax* in the said year [The then section 88(2)].

(5) Rebate of (deduction from) income-tax u/s. 88(1),—

(A) From assessment year 2003-04 and onwards:

In the case of an individual or a Hindu undivided family, whose gross total income before giving effect to deductions under Chapter VI-A (i.e., sections 80CCC to 80U), —

(a) **is Rs. 1,50,000 or less,** rebate of (deduction from) income tax is @ **20%** of the aggregate amount of specified savings[1] [Refer (4)] [Section 88(1)(i)].

Such rebate is @ **30%,** as against @ 20%, if individual's income chargeable under the head **"Salaries" :** (i) does not exceed Rs. 1,00,000 during the previous year before allowing deduction u/s. 16; and (ii) is not less than 90% of his gross total income as defined in section 80B(5) [Proviso to section 88(1)(i)];

(b) **exceeds Rs. 1,50,000 but does not exceed Rs. 5,00,000**, rebate of (deduction from) income-tax is @ **15%** of the aggregate amount of specified savings[1] [Refer (4)] [Section 88(1)(ii)];

(c) **exceeds Rs. 5,00,000,** rebate of (deduction from) income-tax is 'nil' [Section 88(1)(iii)].

In view of omission of section 88(6) & substitution of section 88(1) w.e.f. 1-4-2003, rebate @ 25% allowable to individuals referred to in item 5(B)(a) hereafter is not available from assessment year 2003-04 and onwards. However, such individuals will be entitled to rebate as is applicable in the case of other individuals as stated above.

The maximum amount of specified savings[1] referred to in : (a) items 1 to 21 [Refer pp. 240-241] is upto Rs. 1,00,000; (b) items 1 to 19 [Refer pp. 240-241] is upto Rs. 70,000; and (c) item 18 [Refer page 241] is upto Rs. 20,000 [Section 88(5)].

To illustrate, investments in specified savings referred to in items 1 to 19 [Refer pp. 240-241] is Rs. 70,000 and in specified savings referred to in items 20 & 21 [Refer page 241] is Rs. 30,000, then, rebate on Rs. 1,00,000 @ 20% is Rs. 20,000 [@ 15% is Rs. 15,000]. If the investments referred to in items 20 & 21 is Rs. 26,000, instead of Rs. 30,000, then, rebate on Rs. 96,000 [Rs. 70,000 *plus* Rs. 26,000] @ 20% would be Rs. 19,200 [@ 15% would be Rs. 14,400]. Further, if the investments is made only in specified savings referred to in items 20 & 21, say Rs. 96,000/Rs. 1,00,000, then also rebate on Rs. 96,000/Rs. 1,00,000 @ 20% will be Rs. 19,200/Rs. 20,000 [@ 15% will be Rs. 14,400/Rs. 15,000], respectively.

(B) For assessment years 2001-02 & 2002-03:

In the case of an individual or a Hindu undivided family, rebate of (deduction from) income tax is to be calculated, —

(a) @ **25%** of the aggregate amount of specified savings[1] [refer (4)] subject to a **maximum of Rs. 17,500** by an individual whose income, derived from the exercise of his profession as an author, playwright, artist, musician, actor or sportsman (including an athlete), is 25% or more of his total income. The maximum amount of specified savings can be Rs. 70,000 [The then 1st proviso to section 88(1) & section 88(6)(i)]. If, such professional income is less than 25% of his total income, the rate of rebate will be at 20% as stated in (b) hereafter.

1. For specified savings under section 88, refer pp. 240-242.

(b) @ **20%** of the aggregate amount of specified savings[2] [refer (4)] subject to a —

(i) **maximum of Rs. 12,000,** by assessees other than those referred to in (a) on page 237, if the investments/deposits consists of specified savings referred to in items 1 to 18 [Refer pp. 240-241]. The maximum amount of specified savings referred to in the said items 1 to 18 can be Rs. 60,000 [The then section 88(1) read with section 88(5A)],

(ii) **maximum of Rs. 16,000**, by assessees other than those referred to in (a) on page 237, if the investments/deposits consists of specified savings referred to in items 1 to 18, 20 & 21 [Refer pp. 240-241] subject to the condition that Rs. 20,000 is invested in the specified savings referred to in items 20 & 21 [Refer page 241]. The maximum amount of specified savings can be Rs. 80,000 [The then section 88(1) & 88(6)(ii) read with section 88(5A)].

(c) for assessment year 2002-03, @ **30%** of the aggregate amount of specified savings[2] [refer (4)], as against 20% as stated in (b) above, if individual's income chargeable under the head **"Salaries":** (i) does not exceed Rs. 1,00,000 during the previous year before allowing deduction u/s. 16; and (ii) is not less than 90% of his gross total income as defined in section 80B(5) [The then 2nd proviso to section 88(l)].

(6) In the case of a **resident individual, who has attained age of 65 years** at any time during the previous year is entitled to an additional tax rebate **@ 100%** of the income-tax payable **subject to a limit of Rs. 20,000** (**Rs. 15,000,** for assessment years 2001-02 to 2003-04) [Section 88B].

The rebate u/s. 88B is to be allowed before allowing the tax rebate under Chapter VIII-A. For *Example*, refer page 242.

(7) In the case of a **woman resident in India and below the age of 65 years,** at any time during the previous year, is entitled to an additional tax rebate **@ 100%** of the income-tax payable **subject to a limit of Rs. 5,000** [Section 88C]. The rebate u/s. 88C is to be allowed before allowing the tax rebate under Chapter VIII-A. For *Example,* refer page 258.

For the notes on new sections 88D and 88E inserted by the Finance (No. 2) Act, 2004, refer para 9.2 & 9.3 on page 339.

(8) From the amount of income-tax as computed in (3) on page 237, deduct the aggregate amount of rebates arrived in (5) and/or (6) and/or (7) above. It may be noted that the aggregate amount of rebates arrived at in (5) and/or (6) and/or (7) above shall not, in any case, exceed the amount of income-tax computed in (3) on page 237 [Section 87(2)].

(9) The reduced amount of income-tax arrived as at in (8) above, is to be increased by a surcharge, if any, at prescribed rates on such reduced amount of income-tax.

(10) The resultant figure as arrived at in (8) or (9) above, as the case may be, is the tax payable by you on your total (taxable) income. It may be noted that for assessment year 2005-06, the tax so payable is to be increased by an additional surcharge (i.e., Education Cess) @ 2% of the tax.

EXAMPLES FOR REBATE OF (DEDUCTION FROM) INCOME-TAX U/S. 88:

Assessment year 2004-05:

(**1**) Gross total income[3] [as reduced by long-term capital gain] of Mr. A (aged 50 years), inclusive of interest from Central/State Government securities Rs. 16,000 is, say				Rs. 98,000	(1)
Less: Deductions under Chapter VI-A:					
(1) Mediclaim insurance premia paid Rs. 11,000. Maximum deduction u/s. 80D restricted to		Rs. 10,000			
(2) Interest from Central/State Government securities Rs.16,000. Maximum deduction u/s. 80L(1)	Rs. 12,000				
Additional deduction under proviso to section 80L(1)	Rs. 3,000	Rs. 15,000		Rs. 25,000	(2)
Total (taxable) income				Rs. 73,000	(2)
Income-tax on Rs. 73,000 total (taxable) income (Refer page 244)				Rs. 3,600	(3)
Less: Deduction from income-tax u/s. 88: Aggregate amount of specified savings u/s. 88(2)[2]	Rs. 10,000	(4)			
Deduction @ 20% of Rs.10,000 u/s. 88(1)(i)	Rs. 2,000	[(5)(A)(a)]		Rs. 2,000	(8)
I.T. payable on Rs. 73,000 total (taxable) income after availing deduction from income-tax u/s. 88				Rs. 1,600	
Add: As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax				Rs. Nil	(9)
Income-tax payable on Rs. 73,000 total (taxable) income				Rs. 1,600	(10)

2. For specified savings under section 88, refer pp. 240-242.
3. Gross total income does not consists of income under the head "Salaries".

Assessment year 2004-05:

(**2**) Gross total income [as reduced by long-term capital gain] of Mr. A (aged 50 years) is, say . . Rs. 1,50,000 (1)

Less: Deductions under Chapter VI-A:

Deductions under sections 80D (Rs. 8,000) & 80U (Rs. 50,000) . . . . . Rs. 58,000 (2)

Total (taxable) income . . . . . Rs. 92,000 (2)

Income-tax on Rs. 92,000 total (taxable) income (Refer page 245) . . . . . Rs. 7,400 (3)

Less: Deduction from income-tax u/s. 88:

Aggregate amount of specified savings u/s. 88(2)[4] . . Rs. 40,000 (4)

Deduction @ 20% of Rs. 40,000 u/s. 88(1)(i) . . . . Rs. 8,000 [(5)(A)(a)]

Amount of deduction u/s. 88 restricted u/s. 87(2) to Rs. 7,400 being the amount of income-tax chargeable on Rs. 92,000 total (taxable) income . . . . . Rs. 7,400 (8)

Income-tax payable on Rs. 92,000 total (taxable) income after availing deduction from income-tax u/s. 88 read with section 87(2) . . . . . Rs. Nil (10)

(**3**) Gross total income [as reduced by long-term capital gain] of Mr. A (aged 50 years) is, say . . . . Rs. 2,60,000 (1)

Less: Deductions under Chapter VI-A:

Deductions under sections 80CCC to 80U are, say . . . . . Rs. 70,000 (2)

Total (taxable) income . . . . . Rs. 1,90,000 (2)

Income-tax on Rs. 1,90,000 total (taxable) income (Refer page 246) . . . . Rs. 31,000 (3)

Less: Deduction from income-tax u/s. 88:

Aggregate amount of specified savings u/s. 88(2)[4/5] . . Rs. 1,10,000 (4)

Maximum amount of specified savings eligible for deduction u/s. 88(1) restricted to Rs. 1,00,000 u/s. 88(5). . Rs. 1,00,000 [(5)(A)]

Deduction @ 15% of Rs. 1,00,000 u/s. 88(1)(ii) . . . . Rs. 15,000 [(5)(A)(b)] . . Rs. 15,000 (8)

I.T. payable on Rs. 1,90,000 total (taxable) income after availing deduction from income-tax u/s. 88 . . . . . Rs. 16,000

Add: As the total (taxable) income does not exceed Rs. 8,50,000, surcharge on income-tax . . Rs. Nil (9)

Income-tax payable on Rs. 1,90,000 total (taxable) income . . . . . Rs. 16,000 (10)

TABLE FOR NSC VIII ISSUE:

The year for which interest accrues	**Table A** Purchased **between 1-4-1989 to 31-12-1998** [Vide Rule 15(1) of the NSC (VIII) Issue Rules, 1989]		**Table B** Purchased **between 1-1-1999 to 14-1-2000** [Vide Rule 15(2) of the NSC (VIII) Issue Rules, 1989]		**Table C** Purchased **between 15-1-2000 to 28-2-2001** [Vide Rule 15(3) of the NSC (VIII) Issue Rules, 1989]		**Table D** Purchased **between 1-3-2001 to 28-2-2002** [Vide Rule 15(4) of the NSC (VIII) Issue Rules, 1989]		**Table E** Purchased **between 1-3-2002 to 28-2-2003** [Vide Rule 15(5) of the NSC (VIII) Issue Rules, 1989]		**Table F** Purchased **on or after 1-3-2003** [Vide Rule 15(6) of the NSC (VIII) Issue Rules, 1989]	
	Amt. of int. accruing on certificate of denomination		Amt. of int. accruing on certificate of denomination		Amt. of int. accruing on certificate of denomination		Amt. of int. accruing on certificate of denomination		Amt. of int. accruing on certificate of denomination		Amt. of int. accruing on certificate of denomination	
	Rs. 100	Rs. 20,000	Rs. 100	Rs. 20,000	Rs. 100	Rs. 20,000	Rs. 100	Rs. 20,000	Rs. 100	Rs. 20,000	Rs. 100	Rs. 20,000
	Rs. P.	Rs.	Rs. P.	Rs.	Rs. P.	Rs.	Rs. P.	Rs.	Rs. P.	Rs.	Rs. P.	Rs.
1st com. year	12.40	2,480	11.83	2,366	11.30	2,260	9.72	1,944	9.20	1,840	8.16	1,632
2nd com. year	13.90	2,780	13.23	2,646	12.58	2,516	10.67	2,134	10.05	2,010	8.83	1,766
3rd com. year	15.60	3,120	14.80	2,960	14.00	2,800	11.71	2,342	10.97	2,194	9.55	1,910
4th com. year	17.50	3,500	16.54	3,308	15.58	3,116	12.85	2,570	11.98	2,396	10.33	2,066
5th com. year	19.70	3,940	18.51	3,702	17.35	3,470	14.10	2,820	13.09	2,618	11.17	2,234
6th com. year	22.40	4,480	20.69	4,138	19.31	3,862	15.47	3,094	14.29	2,858	12.08	2,416
Total	101.50	20,300	95.60	19,120	90.12	18,024	74.52	14,904	69.59	13,918	60.10	12,020

4. For specified savings under section 88, refer pp. 240-242.

5. Specified savings also consists of subscription to equity shares/debentures [referred to in section 88(2)(xvi) (Refer item 20 on page 241)] and/or units [referred to in section 88(2)(xvii) (Refer item 21 on page 241)] amounting to Rs. 30,000.

ILLUSTRATION SHOWING HOW TO CLAIM FURTHER REBATE OF (DEDUCTION FROM) INCOME-TAX IN RESPECT OF ACCRUED INTEREST ON INVESTMENTS MADE IN NSC VIII ISSUE IN THE PRECEDING YEARS:

AMOUNT INVESTED/DEPOSITED IN SPECIFIED SAVINGS U/S. 88(2) ELIGIBLE FOR REBATE OF INCOME-TAX U/S. 88(1):

Assessment Year	Life insurance premia paid	Contribution to P.P.F./P.F.	Investment in NSC VIII Issue	Accrued interest on NSC VIII Issue	Aggregate specified savings [Total of Col. (2) to (5)]	Rebate of (deduction from) income-tax @ 20%[6/7] of Col. (6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2003-04	Rs. 2,140	Rs. 6,000	Rs. 20,000	Rs. 14,860*	Rs. 43,000	Rs. 8,600
2004-05	Rs. 4,978	Rs. 15,000	Rs. 20,000	Rs. 14,022*	Rs. 54,000	Rs. 10,800
2005-06	Rs. 9,198	Rs. 35,000	Rs. NIL	Rs. 12,802*	Rs. 57,000	Rs. 11,400

*Accrued interest in respect of investment made in NSC VIII Issue in preceding years is as under:

Invested in NSC VIII Issue on	Amount invested	Accrued interest	Refer Table	Assessment year: 2003-04	2004-05	2005-06
30-1-1998 . .	Rs. 20,000	5th/6th Comp. year	A (on page 239)	Rs. 3,940	**	NIL
30-11-1998 . .	Rs. 20,000	4th/5th/6th Comp. year	A (on page 239)	Rs. 3,500	Rs. 3,940	**
30-12-1999 . .	Rs. 20,000	3rd/4th/5th Comp. year	B (on page 239)	Rs. 2,960	Rs. 3,308	Rs. 3,702
1-1-2001 . .	Rs. 20,000	2nd/3rd/4th Comp. year	C (on page 239)	Rs. 2,516	Rs. 2,800	Rs. 3,116
31-1-2002 . .	Rs. 20,000	1st/2nd/3rd Comp. year	D (on page 239)	Rs. 1,944	Rs. 2,134	Rs. 2,342
20-2-2003 . .	Rs. 20,000	—/1st/2nd Comp. year	E (on page 239)	—	Rs. 1,840	Rs. 2,010
1-1-2004 . .	Rs. 20,000	—/—/1st Comp. year	F (on page 239)	—	—	Rs. 1,632
Aggregate accrued interest in respect of NSC VIII Issue				Rs. 14,860	Rs. 14,022	Rs. 12,802

**Interest on NSC VIII Issue for 6th completed year Rs. 4,480 [for assessment year 2004-05 (Refer table A on page 239)]/Rs. 4,480 [for assessment year 2005-06 (Refer table A on page 239)] does not qualify for rebate of (deduction from) income-tax, as it is not deemed to have been re-invested on behalf of the holder [Vide Rule 15(1) of NSC (VIII Issue) Rules, 1989].

Specified savings qualifying for deduction under section 88:

Under section 88(2), following sums paid or deposited by an individual/a Hindu undivided family, *at any time during the previous year*[8] qualifies for deduction u/s. 88(1):

1. **Life insurance premia paid —**
   (a) by an individual, on his/her life or on life of his/her spouse or, on life of any child [including adult children and a married daughter. Vide Circular No. 574, dt. 22-8-90: 185 ITR (St.) 31] of such individual; and
   (b) by a Hindu undivided family, on life of any member of the family [Section 88(2)(i) read with section 88(4)(a)].

   Note: From assessment year 2004-05 and onwards, amount of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, eligible amount for rebate of (deduction from) income-tax is limited to 20% of the actual capital sum assured [i.e., premia paid in excess of 20% of the capital sum assured will not qualify for the said rebate]. In calculating the said capital sum, no account shall be taken: (a) of the value of any premiums agreed to be returned, or (b) of any benefit by way of bonus or otherwise, over and above the sum actually assured, which is to be or may be received under the policy by any person [Section 88(2A)].
2. Payment made, by an individual, on his/her life or on life of his/her spouse or life of any child [including adult children and a married daughter. Vide Circular No. 574, dt. 22-8-90: 185 ITR (St.) 31] of such individual, under contract of **deferred annuity** [other than annuity plan referred to in item 13 on page 241], if the contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity [Section 88(2)(ii) read with section 88(4)(b)].
3. By way of deduction from **salary payable by or on behalf of the Government** to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a **deferred annuity** or making provision for his wife or children, in so far as the sum so deducted does not exceed 1/5th of the salary [Section 88(2)(iii)].
4. Contribution made by an individual to any **provident fund to which the Provident Funds Act, 1925 applies** [Section 88(2)(iv)].
5. Contribution to **Public Provident Fund Scheme, 1968** in an account standing in the name of—
   (a) in the case of an individual, the individual, the wife or husband and any child of such individual. Contribution by an individual in an account standing in the name of spouse (i.e., husband/wife) is eligible for rebate of (deduction from) income-tax; and
   (b) in the case of a Hindu undivided family, any member thereof [Section 88(2)(v) read with section 88(4)(a)].
6. Contribution made by an employee to a **recognised provident fund** [Section 88(2)(vi)].
7. Contribution by an employee to an **approved superannuation fund** [Section 88(2)(vii)].
8. Deposits in 10 year or 15 year account under the **Post Office Savings Bank (C.T.D.) Rules, 1959,** where such sums are deposited in an account standing in the name of—
   (a) in the case of an individual, such individual or a minor of whom he is the guardian; and
   (b) in the case of a Hindu undivided family, any member of the family [Section 88(2)(viii) read with section 88(4)(c)].

6. Rebate is @30% in the case of an individual whose income is chargeable under the head "Salaries". For further details, refer item (5)(A)(a) on page 237.

7. It is assumed that, for assessment years 2003-04 to 2005-06, gross total income is Rs. 1,40,000.

8. Upto assessment year 2002-03, for the words "at any time during the previous year", read "in the previous year out of his/its income chargeable to tax".

9. Subscription to **National Savings Scheme** referred to in National Savings Scheme Rules, 1992 [Notification No. 819(E), dt. 21-10-92: 198 ITR (St.) 133] [Section 88(2)(ix)].
10. Subscription to **6-year National Savings Certificates VIth, VIIth & VIIIth Issue.** Accrued interest in respect of NSCs VIth & VIIIth Issue also eligible for deduction u/s. 88(1) [vide para 5(vi)(b) of Circular No. 690, dt. 1-9-1994: 209 ITR (St.) 96] [Tables for accrued interest is given on page 239] [Section 88(2)(x) & (xi)].
11. Contribution made, in the name of any person mentioned below, for participation in the **Unit-linked Insurance Plan, 1971 of the Unit Trust of India—**
    (a) in the case of an individual, the individual, the wife or husband and any child of such individual; and
    (b) in the case of a Hindu undivided family, any member thereof [Section 88(2)(xii) read with section 88(4)(a)].
12. Contribution made, in the name of any person mentioned below, for participation in the **unit-linked insurance plan of the L.I.C. Mutual Fund** notified u/s. 10(23D) [i.e., Dhanraksha, 1989 plan of the L.I.C. Mutual Fund. Notification No. 56(E), dt. 31-1-91:187 ITR (St.) 151]:
    (a) in the case of an individual, the individual, the wife or husband and any child of such individual; and
    (b) in the case of a Hindu undivided family, any member thereof [Section 88(2)(xiii) read with section 88(4)(a)].
13. Payment made to effect or to keep in force a **notified deferred annuity plan** of —
    (a) Life Insurance Corporation [i.e., 'Jeevan Dhara' & 'Jeevan Akshay' Plans [Notification No. 801(E), dt. 7-10-92: 198 ITR (St.) 129]; 'New Jeevan Dhara-I' & 'New Jeevan Akshay-I' Plans [Notification No, 306E, dt. 18-3-03: 261 ITR (St.) 50], or
    (b) any other insurer [as defined in section 2(28BB)], from assessment year 2002-03 and onwards [Section 88(2)(xiiia)].
14. Subscription, not exceeding Rs. 10,000, to any units of a Mutual Fund [notified u/s. 10(23D)] or the Unit Trust of India, under a plan formulated in accordance with notified scheme (i.e., **Equity Linked Savings Scheme**) [Section 88(2)(xiiib)].
15. Contribution by an individual to **notified pension fund** set up by any Mutual Fund approved u/s. 10(23D) or by the Unit Trust of India [Section 88(2)(xiiic)].
16. Subscription to notified deposit scheme of the National Housing Bank [i.e., **Home Loan Account Scheme**[9]], or as a contribution to **notified pension fund set up by the National Housing Bank** [Section 88(2)(xiv)].
17. Subscription to **notified deposit scheme**, interest on which is not eligible for deduction u/s. 80L:
    (i) of a public sector company which is engaged in providing long-term finance for construction/purchase of residential houses in India, or
    (ii) of any authority constituted in India 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 [Section 88(2)(xiva)].
18. Payment not exceeding Rs. 20,000, in a previous year, for the **purchase or construction of a residential house** property income from which is chargeable to tax under the head "Income from house property". For further details, refer item (b) of conditions hereafter [Section 88(2)(xv) read with section 88(5)].
19. From assessment year 2004-05 and onwards, any sum paid, by an individual, as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter, to any university, college, school or other educational institution situated within India for the purpose of full-time education of any two children of such individual. However, the aggregate of sum so paid as tuition fees, the maximum amount eligible for rebate is limited to Rs. 12,000 for each child. In the case of two children, maximum amount eligible for rebate is thus limited to Rs. 24,000 [Section 88(2)(xivb) read with section 88(4)(d) and 3rd proviso to section 88(5)].
20. Subscription to **equity shares or debentures forming part of any eligible issue of capital approved by the Board** on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed Form No. 59. Where a rebate (deduction) is claimed and allowed u/s. 88 with reference to cost of any equity shares or debentures, the cost of such shares or debentures will not be taken into account for the purposes of exemption from long-term capital gain u/s. 54EA & 54EB. For further details, refer item (d) of conditions on page 242 [Section 88(2)(xvi)].
21. Subscription to **any units of any mutual fund referred to in section 10(23D) and approved by the Board** on an application made by such mutual fund in the prescribed Form No. 59A and the amount of subscription to such units is subscribed only in the eligible issue of capital [referred to in section 88(2)(xvi)] of any company. Where a rebate (deduction) is claimed and allowed u/s. 88 with reference to the cost of units, the cost of such units will not be taken into account for the purposes of exemption from long-term capital gain u/s. 54EA & 54EB [Section 88(2) (xvii)].

Conditions:

(a) "Contribution" to any fund will not include any sums in repayment of loan taken from that fund [Section 88(8) (i)].

(b) Payment for purchase or construction of residential house will include any instalment or part payment of the amount due under any self-financing or other scheme of any development authority/housing board/other similar authority or to any company/co-operative society of which assessee is a shareholder/member.

9. Paragraph 3(iv) of the Home Loan Account Scheme states that "The savings will earn interest @ 10% p.a. which will be added to the account annually (in March) & treated as reinvested in the account". Paragraph 14 of the said scheme states that "The accrued interest treated as reinvested in the account will also be eligible for the concession" (i.e., u/s. 80C/88).

It will also include re-payment of loan borrowed by the assessee from: (1) Government, or (2) any bank, or (3) Life Insurance Corporation of India, or (4) the National Housing Bank, or (5) certain categories of institutions engaged in the business of providing long-term finance for construction or purchase of residential houses in India, or (6) any public limited company or co-operative society engaged in the business of financing the construction of houses, or (7) the assessee's employer where such employer is a public company or a public sector company or a university or a college affiliated to such university or a local authority or a co-operative society [Section 88(2)(xv)(c)[10]].

Payments towards the cost of house property will include stamp duty, registration fee and other expenses for the purpose of transfer of house to the assessee. Payments towards cost of house, however, will not include admission fee or cost of share or initial deposit or cost of addition/alteration/renovation/repair incurred after the house is occupied/let out by the assessee or any expenditure in respect of which deduction is allowable u/s. 24.

(c) Under section 88(7), where, in any previous year, an assessee—

(1) terminates contract of insurance referred to in item 1 on page 240, by notice or where the contract ceases to be in force by reason of failure to pay any premium, before premiums have been paid for 2 years, or, in case of any single insurance premium policy, within 2 years after the date of commencement of insurance; or

(2) terminates his participation in any Unit-linked Insurance Plan, referred to in items 11 & 12 on page 241, by notice or where he ceases to participate by reason of failure to pay contribution, before contributions have been paid for 5 years; or

(3) transfers the house, referred to in item 18 on page 241, before the expiry of 5 years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any sums specified in condition (b) on page 241,

then,

(i) no deduction is to be allowed with reference to any of the sums [referred to in items 1, 11, 12 & 18] paid in such previous year; and

(ii) the aggregate amount of the deductions of income-tax allowed in earlier previous year(s) shall be deemed to be tax payable in the assessment year relevant to such previous year and shall be added to the tax on the total income of the assessee with which he is chargeable for such assessment year.

(d) Under section 88(7A), if any equity shares or debentures, referred to in item 20 on page 241, with reference to the cost of which a rebate (deduction) is allowed u/s. 88(1) are sold or transferred by the assessee to any person within a period of three years from the date of their acquisition, the aggregate amount of the deductions from income-tax allowed in respect of such equity shares or debentures in earlier previous year(s) shall be deemed to be tax payable in the assessment year relevant to such previous year and shall be added to the tax on the total income of the assessee with which he is chargeable for such assessment year. Date of acquisition of shares/debentures is the date on which his name is entered in relation to those shares/debentures in the register of members/debenture-holders of the public company.

EXAMPLE FOR REBATE OF (DEDUCTION FROM) INCOME-TAX U/S. 88B:

For assessment year 2004-05, Mr. A, who has attained age of 65 years on 31-3-2004, has gross total income of Rs. 2,00,000 which includes interest from banks Rs. 14,000. He has invested Rs. 75,000 in Bonds eligible for rebate u/s. 88(2)(xvi) on 1-1-2004. The tax payable by him after availing of rebates (deductions) u/s. 88 and u/s. 88B is as under:

Gross total income		Rs. 2,00,000
Less: Deduction under Chapter VI-A:		
Deduction u/s. 80L:		
Interest from banks Rs. 14,000.		
Maximum deduction u/s. 80L(1)		Rs. 12,000
Total (taxable) income		Rs. 1,88,000
Income-tax on Rs. 1,88,000 total (taxable) income (Refer page 246)		Rs. 30,400
Less: (1) Deduction from income-tax u/s. 88B:		
Since Mr. A, has attained age of 65 years during the previous year i.e., financial year 2003-04, he is entitled to deduction u/s. 88B @ 100% of income-tax payable Rs. 30,400 [being I.T. on total (taxable) income Rs. 1,88,000] subject to a limit of Rs. 20,000		Rs. 20,000
Income-tax payable after availing deduction u/s. 88B		Rs. 10,400
(2) Deduction from income-tax u/s. 88:		
Investment in Bonds referred to in section 88(2)(xvi)	Rs. 75,000	
Deduction @ 15% of Rs. 75,000 u/s. 88(1)(ii) [Refer 5(A)(b) on page 237]	Rs. 11,250	
Amount of deduction u/s. 88 restricted u/s. 87(2) to Rs. 10,400 [Rs. 30,400 being the amount of income-tax chargeable on Rs. 1,88,000 total (taxable) income *less* rebate u/s. 88B Rs. 20,000]		Rs. 10,400
Income-tax payable on Rs. 1,88,000 total (taxable) income after availing deductions from income-tax u/s. 88 & 88B read with section 87(2)		Rs. Nil

Notes: 1. Deduction from income-tax u/s. 88B is to be first availed of before availing deduction from income-tax under Chapter VIII-A (Refer section 88B).

2. Deduction from income-tax u/s. 88B (and not u/s. 88) is allowable even on income-tax payable on total (taxable) income inclusive of long-term capital gain [Vide section 112(3)]. Where the total (taxable) income includes long-term capital gain, refer *Examples* No. (viii) to (x) on pp. 163-165.

[Concluded on page 258]

10. For notes on amendment made in section 88(2)(xv)(c) by the Finance (No. 2) Act, 2004, refer para 9.1 on page 339.

TABLE I

INCOME-TAX**

FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 50,000 & Rs. 60,000

ASSESSMENT YEAR

2004-05 §

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT ‡ & (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 10%†

Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.
10	1	**20**	2	**30**	3	**40**	4	**50**	5	**60**	6	**70**	7	**80**	8
20	2	**30**	3	**40**	4	**50**	5	**60**	6	**70**	7	**80**	8	**90**	9
50000	—	**50170**	17	**50340**	34	**51600**	160	**53300**	330	**55000**	500	**56700**	670	**58400**	840
50010	1	**50180**	18	**50350**	35	**51700**	170	**53400**	340	**55100**	510	**56800**	680	**58500**	850
50020	2	**50190**	19	**50360**	36	**51800**	180	**53500**	350	**55200**	520	**56900**	690	**58600**	860
50030	3	**50200**	20	**50370**	37	**51900**	190	**53600**	360	**55300**	530	**57000**	700	**58700**	870
50040	4	**50210**	21	**50380**	38	**52000**	200	**53700**	370	**55400**	540	**57100**	710	**58800**	880
50050	5	**50220**	22	**50400**	40	**52100**	210	**53800**	380	**55500**	550	**57200**	720	**58900**	890
50060	6	**50230**	23	**50500**	50	**52200**	220	**53900**	390	**55600**	560	**57300**	730	**59000**	900
50070	7	**50240**	24	**50600**	60	**52300**	230	**54000**	400	**55700**	570	**57400**	740	**59100**	910
50080	8	**50250**	25	**50700**	70	**52400**	240	**54100**	410	**55800**	580	**57500**	750	**59200**	920
50090	9	**50260**	26	**50800**	80	**52500**	250	**54200**	420	**55900**	590	**57600**	760	**59300**	930
50100	10	**50270**	27	**50900**	90	**52600**	260	**54300**	430	**56000**	600	**57700**	770	**59400**	940
50110	11	**50280**	28	**51000**	100	**52700**	270	**54400**	440	**56100**	610	**57800**	780	**59500**	950
50120	12	**50290**	29	**51100**	110	**52800**	280	**54500**	450	**56200**	620	**57900**	790	**59600**	960
50130	13	**50300**	30	**51200**	120	**52900**	290	**54600**	460	**56300**	630	**58000**	800	**59700**	970
50140	14	**50310**	31	**51300**	130	**53000**	300	**54700**	470	**56400**	640	**58100**	810	**59800**	980
50150	15	**50320**	32	**51400**	140	**53100**	310	**54800**	480	**56500**	650	**58200**	820	**59900**	990
50160	16	**50330**	33	**51500**	150	**53200**	320	**54900**	490	**56600**	660	**58300**	830	**60000**	1000

Note: Income-tax payable on taxable income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For Income-tax payable on long-term capital gains, refer pp. 162-165.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at, rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B & 88C refer pp. 237-242 & 258.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-298.

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 188.

§ For estimated annual tax on ''Salaries'' and ''advance tax'' payable during the financial year ending on 31-3-2005, refer page 299.

TABLE II

INCOME-TAX**

FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 60,000 & Rs. 1,50,000

ASSESSMENT YEAR

2004-05 §

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT ‡ & (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 20%†

Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.
10	2	**20**	4	**30**	6	**40**	8	**60**	12	**80**	16	**100**	20	**300**	60
20	4	**30**	6	**40**	8	**50**	10	**70**	14	**90**	18	**200**	40	**400**	80
60000	1000	**61700**	1340	**63400**	1680	**65100**	2020	**66700**	2340	**68400**	2680	**70100**	3020	**71800**	3360
60100	1020	**61800**	1360	**63500**	1700	**65200**	2040	**66800**	2360	**68500**	2700	**70200**	3040	**71900**	3380
60200	1040	**61900**	1380	**63600**	1720	**65300**	2060	**66900**	2380	**68600**	2720	**70300**	3060	**72000**	3400
60300	1060	**62000**	1400	**63700**	1740	**65400**	2080	**67000**	2400	**68700**	2740	**70400**	3080	**72100**	3420
60400	1080	**62100**	1420	**63800**	1760	**65500**	2100	**67100**	2420	**68800**	2760	**70500**	3100	**72200**	3440
60500	1100	**62200**	1440	**63900**	1780	**65600**	2120	**67200**	2440	**68900**	2780	**70600**	3120	**72300**	3460
60600	1120	**62300**	1460	**64000**	1800	**65700**	2140	**67300**	2460	**69000**	2800	**70700**	3140	**72400**	3480
60700	1140	**62400**	1480	**64100**	1820	**65800**	2160	**67400**	2480	**69100**	2820	**70800**	3160	**72500**	3500
60800	1160	**62500**	1500	**64200**	1840	**65900**	2180	**67500**	2500	**69200**	2840	**70900**	3180	**72600**	3520
60900	1180	**62600**	1520	**64300**	1860	**66000**	2200	**67600**	2520	**69300**	2860	**71000**	3200	**72700**	3540
61000	1200	**62700**	1540	**64400**	1880	**66100**	2220	**67700**	2540	**69400**	2880	**71100**	3220	**72800**	3560
61100	1220	**62800**	1560	**64500**	1900	**66200**	2240	**67800**	2560	**69500**	2900	**71200**	3240	**72900**	3580
61200	1240	**62900**	1580	**64600**	1920	**66300**	2260	**67900**	2580	**69600**	2920	**71300**	3260	**73000**	3600
61300	1260	**63000**	1600	**64700**	1940	**66400**	2280	**68000**	2600	**69700**	2940	**71400**	3280	**73100**	3620
61400	1280	**63100**	1620	**64800**	1960	**66500**	2300	**68100**	2620	**69800**	2960	**71500**	3300	**73200**	3640
61500	1300	**63200**	1640	**64900**	1980	**66600**	2320	**68200**	2640	**69900**	2980	**71600**	3320	**73300**	3660
61600	1320	**63300**	1660	**65000**	2000	**66700**	2340	**68300**	2660	**70000**	3000	**71700**	3340	**73400**	3680

Note: Income-tax payable on taxable income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For Income-tax payable on long-term capital gains, refer pp. 162-165.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B & 88C refer pp. 237-242 & 258.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-298.

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 188.

§ For estimated annual tax on ''Salaries'' and ''advance tax'' payable during the financial year ending on 31-3-2005, refer pp. 300-301.

TABLE II — *(Contd.)*

Before you proceed to refer this table, please refer footnote marked ** on facing page.

Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.
73400	3680	**76600**	4320	**79800**	4960	**83000**	5600	**87000**	6400	**103000**	9600	**119000**	12800	**134500**	15900
73500	3700	**76700**	4340	**79900**	4980	**83100**	5620	**87500**	6500	**103500**	9700	**119500**	12900	**135000**	16000
73600	3720	**76800**	4360	**80000**	5000	**83200**	5640	**88000**	6600	**104000**	9800	**120000**	13000	**135500**	16100
73700	3740	**76900**	4380	**80100**	5020	**83300**	5660	**88500**	6700	**104500**	9900	**120500**	13100	**136000**	16200
73800	3760	**77000**	4400	**80200**	5040	**83400**	5680	**89000**	6800	**105000**	10000	**121000**	13200	**136500**	16300
73900	3780	**77100**	4420	**80300**	5060	**83500**	5700	**89500**	6900	**105500**	10100	**121500**	13300	**137000**	16400
74000	3800	**77200**	4440	**80400**	5080	**83600**	5720	**90000**	7000	**106000**	10200	**122000**	13400	**137500**	16500
74100	3820	**77300**	4460	**80500**	5100	**83700**	5740	**90500**	7100	**106500**	10300	**122500**	13500	**138000**	16600
74200	3840	**77400**	4480	**80600**	5120	**83800**	5760	**91000**	7200	**107000**	10400	**123000**	13600	**138500**	16700
74300	3860	**77500**	4500	**80700**	5140	**83900**	5780	**91500**	7300	**107500**	10500	**123500**	13700	**139000**	16800
74400	3880	**77600**	4520	**80800**	5160	**84000**	5800	**92000**	7400	**108000**	10600	**124000**	13800	**139500**	16900
74500	3900	**77700**	4540	**80900**	5180	**84100**	5820	**92500**	7500	**108500**	10700	**124500**	13900	**140000**	17000
74600	3920	**77800**	4560	**81000**	5200	**84200**	5840	**93000**	7600	**109000**	10800	**125000**	14000	**140500**	17100
74700	3940	**77900**	4580	**81100**	5220	**84300**	5860	**93500**	7700	**109500**	10900	**125500**	14100	**141000**	17200
74800	3960	**78000**	4600	**81200**	5240	**84400**	5880	**94000**	7800	**110000**	11000	**126000**	14200	**141500**	17300
74900	3980	**78100**	4620	**81300**	5260	**84500**	5900	**94500**	7900	**110500**	11100	**126500**	14300	**142000**	17400
75000	4000	**78200**	4640	**81400**	5280	**84600**	5920	**95000**	8000	**111000**	11200	**127000**	14400	**142500**	17500
75100	4020	**78300**	4660	**81500**	5300	**84700**	5940	**95500**	8100	**111500**	11300	**127500**	14500	**143000**	17600
75200	4040	**78400**	4680	**81600**	5320	**84800**	5960	**96000**	8200	**112000**	11400	**128000**	14600	**143500**	17700
75300	4060	**78500**	4700	**81700**	5340	**84900**	5980	**96500**	8300	**112500**	11500	**128500**	14700	**144000**	17800
75400	4080	**78600**	4720	**81800**	5360	**85000**	6000	**97000**	8400	**113000**	11600	**129000**	14800	**144500**	17900
75500	4100	**78700**	4740	**81900**	5380	**85100**	6020	**97500**	8500	**113500**	11700	**129500**	14900	**145000**	18000
75600	4120	**78800**	4760	**82000**	5400	**85200**	6040	**98000**	8600	**114000**	11800	**130000**	15000	**145500**	18100
75700	4140	**78900**	4780	**82100**	5420	**85300**	6060	**98500**	8700	**114500**	11900	**130500**	15100	**146000**	18200
75800	4160	**79000**	4800	**82200**	5440	**85400**	6080	**99000**	8800	**115000**	12000	**131000**	15200	**146500**	18300
75900	4180	**79100**	4820	**82300**	5460	**85500**	6100	**99500**	8900	**115500**	12100	**131500**	15300	**147000**	18400
76000	4200	**79200**	4840	**82400**	5480	**85600**	6120	**100000**	9000	**116000**	12200	**132000**	15400	**147500**	18500
76100	4220	**79300**	4860	**82500**	5500	**85700**	6140	**100500**	9100	**116500**	12300	**132500**	15500	**148000**	18600
76200	4240	**79400**	4880	**82600**	5520	**85800**	6160	**101000**	9200	**117000**	12400	**133000**	15600	**148500**	18700
76300	4260	**79500**	4900	**82700**	5540	**85900**	6180	**101500**	9300	**117500**	12500	**133500**	15700	**149000**	18800
76400	4280	**79600**	4920	**82800**	5560	**86000**	6200	**102000**	9400	**118000**	12600	**134000**	15800	**149500**	18900
76500	4300	**79700**	4940	**82900**	5580	**86500**	6300	**102500**	9500	**118500**	12700	**134500**	15900	**150000**	19000

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000.**
§ Refer § marked note on facing page.

TABLE III

INCOME-TAX**
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,50,000 & Rs. 8,50,000

ASSESSMENT YEAR

2004-05 §

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT ‡ & (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 30%†

Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.
10	3	**40**	12	**70**	21	**100**	30	**300**	90	**600**	180	**900**	270	**2000**	600
20	6	**50**	15	**80**	24	**200**	60	**400**	120	**700**	210	**1000**	300	**3000**	900
30	9	**60**	18	**90**	27	**300**	90	**500**	150	**800**	240	**2000**	600	**4000**	1200
150000	19000	**170000**	25000	**190000**	31000	**210000**	37000	**229000**	42700	**249000**	48700	**269000**	54700	**289000**	60700
151000	19300	**171000**	25300	**191000**	31300	**211000**	37300	**230000**	43000	**250000**	49000	**270000**	55000	**290000**	61000
152000	19600	**172000**	25600	**192000**	31600	**212000**	37600	**231000**	43300	**251000**	49300	**271000**	55300	**291000**	61300
153000	19900	**173000**	25900	**193000**	31900	**213000**	37900	**232000**	43600	**252000**	49600	**272000**	55600	**292000**	61600
154000	20200	**174000**	26200	**194000**	32200	**214000**	38200	**233000**	43900	**253000**	49900	**273000**	55900	**293000**	61900
155000	20500	**175000**	26500	**195000**	32500	**215000**	38500	**234000**	44200	**254000**	50200	**274000**	56200	**294000**	62200
156000	20800	**176000**	26800	**196000**	32800	**216000**	38800	**235000**	44500	**255000**	50500	**275000**	56500	**295000**	62500
157000	21100	**177000**	27100	**197000**	33100	**217000**	39100	**236000**	44800	**256000**	50800	**276000**	56800	**296000**	62800
158000	21400	**178000**	27400	**198000**	33400	**218000**	39400	**237000**	45100	**257000**	51100	**277000**	57100	**297000**	63100
159000	21700	**179000**	27700	**199000**	33700	**219000**	39700	**238000**	45400	**258000**	51400	**278000**	57400	**298000**	63400
160000	22000	**180000**	28000	**200000**	34000	**220000**	40000	**239000**	45700	**259000**	51700	**279000**	57700	**299000**	63700
161000	22300	**181000**	28300	**201000**	34300	**221000**	40300	**240000**	46000	**260000**	52000	**280000**	58000	**300000**	64000
162000	22600	**182000**	28600	**202000**	34600	**222000**	40600	**241000**	46300	**261000**	52300	**281000**	58300	**301000**	64300
163000	22900	**183000**	28900	**203000**	34900	**223000**	40900	**242000**	46600	**262000**	52600	**282000**	58600	**302000**	64600
164000	23200	**184000**	29200	**204000**	35200	**224000**	41200	**243000**	46900	**263000**	52900	**283000**	58900	**303000**	64900
165000	23500	**185000**	29500	**205000**	35500	**225000**	41500	**244000**	47200	**264000**	53200	**284000**	59200	**304000**	65200
166000	23800	**186000**	29800	**206000**	35800	**226000**	41800	**245000**	47500	**265000**	53500	**285000**	59500	**305000**	65500
167000	24100	**187000**	30100	**207000**	36100	**227000**	42100	**246000**	47800	**266000**	53800	**286000**	59800	**306000**	65800
168000	24400	**188000**	30400	**208000**	36400	**228000**	42400	**247000**	48100	**267000**	54100	**287000**	60100	**307000**	66100
169000	24700	**189000**	30700	**209000**	36700	**229000**	42700	**248000**	48400	**268000**	54400	**288000**	60400	**308000**	66400

Note: Income-tax payable on taxable income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For income-tax payable on long-term capital gains, refer pp. 162-165.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B & 88C refer pp. 237-242 & 258.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-298.

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 188.

§ For estimated annual tax on ''Salaries'' and ''advance tax'' payable during the financial year ending on 31-3-2005, refer pp. 302-303.

TABLE III — *(Contd.)*

Before you proceed to refer this table, please refer footnote marked ** on facing page.

Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.	Taxable Income Rs.	I.T.† Rs.
308000	66400	**341000**	76300	**374000**	86200	**407000**	96100	**439000**	105700	**472000**	115600	**525000**	131500	**690000**	181000
309000	66700	**342000**	76600	**375000**	86500	**408000**	96400	**440000**	106000	**473000**	115900	**530000**	133000	**695000**	182500
310000	67000	**343000**	76900	**376000**	86800	**409000**	96700	**441000**	106300	**474000**	116200	**535000**	134500	**700000**	184000
311000	67300	**344000**	77200	**377000**	87100	**410000**	97000	**442000**	106600	**475000**	116500	**540000**	136000	**705000**	185500
312000	67600	**345000**	77500	**378000**	87400	**411000**	97300	**443000**	106900	**476000**	116800	**545000**	137500	**710000**	187000
313000	67900	**346000**	77800	**379000**	87700	**412000**	97600	**444000**	107200	**477000**	117100	**550000**	139000	**715000**	188500
314000	68200	**347000**	78100	**380000**	88000	**413000**	97900	**445000**	107500	**478000**	117400	**555000**	140500	**720000**	190000
315000	68500	**348000**	78400	**381000**	88300	**414000**	98200	**446000**	107800	**479000**	117700	**560000**	142000	**725000**	191500
316000	68800	**349000**	78700	**382000**	88600	**415000**	98500	**447000**	108100	**480000**	118000	**565000**	143500	**730000**	193000
317000	69100	**350000**	79000	**383000**	88900	**416000**	98800	**448000**	108400	**481000**	118300	**570000**	145000	**735000**	194500
318000	69400	**351000**	79300	**384000**	89200	**417000**	99100	**449000**	108700	**482000**	118600	**575000**	146500	**740000**	196000
319000	69700	**352000**	79600	**385000**	89500	**418000**	99400	**450000**	109000	**483000**	118900	**580000**	148000	**745000**	197500
320000	70000	**353000**	79900	**386000**	89800	**419000**	99700	**451000**	109300	**484000**	119200	**585000**	149500	**750000**	199000
321000	70300	**354000**	80200	**387000**	90100	**420000**	100000	**452000**	109600	**485000**	119500	**590000**	151000	**755000**	200500
322000	70600	**355000**	80500	**388000**	90400	**421000**	100300	**453000**	109900	**486000**	119800	**595000**	152500	**760000**	202000
323000	70900	**356000**	80800	**389000**	90700	**422000**	100600	**454000**	110200	**487000**	120100	**600000**	154000	**765000**	203500
324000	71200	**357000**	81100	**390000**	91000	**423000**	100900	**455000**	110500	**488000**	120400	**605000**	155500	**770000**	205000
325000	71500	**358000**	81400	**391000**	91300	**424000**	101200	**456000**	110800	**489000**	120700	**610000**	157000	**775000**	206500
326000	71800	**359000**	81700	**392000**	91600	**425000**	101500	**457000**	111100	**490000**	121000	**615000**	158500	**780000**	208000
327000	72100	**360000**	82000	**393000**	91900	**426000**	101800	**458000**	111400	**491000**	121300	**620000**	160000	**785000**	209500
328000	72400	**361000**	82300	**394000**	92200	**427000**	102100	**459000**	111700	**492000**	121600	**625000**	161500	**790000**	211000
329000	72700	**362000**	82600	**395000**	92500	**428000**	102400	**460000**	112000	**493000**	121900	**630000**	163000	**795000**	212500
330000	73000	**363000**	82900	**396000**	92800	**429000**	102700	**461000**	112300	**494000**	122200	**635000**	164500	**800000**	214000
331000	73300	**364000**	83200	**397000**	93100	**430000**	103000	**462000**	112600	**495000**	122500	**640000**	166000	**805000**	215500
332000	73600	**365000**	83500	**398000**	93400	**431000**	103300	**463000**	112900	**496000**	122800	**645000**	167500	**810000**	217000
333000	73900	**366000**	83800	**399000**	93700	**432000**	103600	**464000**	113200	**497000**	123100	**650000**	169000	**815000**	218500
334000	74200	**367000**	84100	**400000**	94000	**433000**	103900	**465000**	113500	**498000**	123400	**655000**	170500	**820000**	220000
335000	74500	**368000**	84400	**401000**	94300	**434000**	104200	**466000**	113800	**499000**	123700	**660000**	172000	**825000**	221500
336000	74800	**369000**	84700	**402000**	94600	**435000**	104500	**467000**	114100	**500000**	124000	**665000**	173500	**830000**	223000
337000	75100	**370000**	85000	**403000**	94900	**436000**	104800	**468000**	114400	**505000**	125500	**670000**	175000	**835000**	224500
338000	75400	**371000**	85300	**404000**	95200	**437000**	105100	**469000**	114700	**510000**	127000	**675000**	176500	**840000**	226000
339000	75700	**372000**	85600	**405000**	95500	**438000**	105400	**470000**	115000	**515000**	128500	**680000**	178000	**845000**	227500
340000	76000	**373000**	85900	**406000**	95800	**439000**	105700	**471000**	115300	**520000**	130000	**685000**	179500	**850000**	229000

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000.**

§ Refer § marked note on facing page.

TABLE IV

INCOME-TAX** & SURCHARGE
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 8,50,000 & Rs. 8,84,170

ASSESSMENT YEAR

2004-05 §

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT ‡ & (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 30% SURCHARGE ON INCOME-TAX: ON THE BASIS OF MARGINAL RELIEF†

Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.
10	3	7	10	**60**	18	42	60	**100**	30	70	100	**500**	150	350	500
20	6	14	20	**70**	21	49	70	**200**	60	140	200	**600**	180	420	600
30	9	21	30	**80**	24	56	80	**300**	90	210	300	**700**	210	490	700
40	12	28	40	**90**	27	63	90	**400**	120	280	400	**800**	240	560	800
50	15	35	50	**100**	30	70	100	**500**	150	350	500	**900**	270	630	900
850000	229000	—	229000	**861000**	232300	7700	240000	**871000**	235300	14700	250000	**882000**	238600	22400	261000
851000	229300	700	230000	**862000**	232600	8400	241000	**872000**	235600	15400	251000	**883000**	238900	23100	262000
852000	229600	1400	231000	**863000**	232900	9100	242000	**873000**	235900	16100	252000	**884000**	239200	23800	263000
853000	229900	2100	232000	**864000**	233200	9800	243000	**874000**	236200	16800	253000	**884100**	239230	23870	263100
854000	230200	2800	233000	**865000**	233500	10500	244000	**875000**	236500	17500	254000	**884110**	239233	23877	263110
855000	230500	3500	234000	**866000**	233800	11200	245000	**876000**	236800	18200	255000	**884120**	239236	23884	263120
856000	230800	4200	235000	**867000**	234100	11900	246000	**877000**	237100	18900	256000	**884130**	239239	23891	263130
857000	231100	4900	236000	**868000**	234400	12600	247000	**878000**	237400	19600	257000	**884140**	239242	23898	263140
858000	231400	5600	237000	**869000**	234700	13300	248000	**879000**	237700	20300	258000	**884150**	239245	23905	263150
859000	231700	6300	238000	**870000**	235000	14000	249000	**880000**	238000	21000	259000	**884160**	239248	23912	263160
860000	232000	7000	239000	**871000**	235300	14700	250000	**881000**	238300	21700	260000	**884170**	239251	23919	263170

Note: Income-tax payable on taxable income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For income-tax payable on long-term capital gains, refer pp. 162-165.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at rebates of (deductions from) income-tax is to be allowed u/s. 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88B & 88C refer pp. 237-242 & 258.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-298.

† **Surcharge at the rate of 10%** on income-tax is payable **where the taxable income exceeds Rs. 8,50,000.** In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance (No. 2) Act, 2004 [Vide proviso to Paragraph A of Part I of the First Schedule to the Finance (No. 2) Act, 2004]. The marginal relief operates upto taxable income between Rs. 8,50,010 & Rs. 8,84,170 [Refer table above]. Even **in the case of a non-resident, surcharge on income-tax is payable where the taxable income exceeds Rs. 8,50,000** [Vide item (i) of Paragraph A of Part I of the First Schedule to the Finance (No. 2) Act, 2004]. **In cases, where deduction from income-tax is allowable u/s. 88B & 88C, do not compute surcharge and total from these columns.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 188.

§ For estimated annual tax on ''Salaries'' and ''advance tax'' payable during the financial year ending on 31-3-2005, refer page 304.

TABLE V

INCOME-TAX** & SURCHARGE
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 8,84,180 & Rs. 10,00,000

ASSESSMENT YEAR

2004-05 §

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT ‡ & (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 30% SURCHARGE: 10% OF THE INCOME-TAX†

Taxable Income Rs.	I.T. Rs.	S.C.† Rs. P.	Total† Rs. P.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs. P.	Total† Rs. P.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.	Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Total† Rs.
10	3	0.30	3.30	**70**	21	2.10	23.10	**300**	90	9	99	**800**	240	24	264
20	6	0.60	6.60	**80**	24	2.40	26.40	**400**	120	12	132	**900**	270	27	297
30	9	0.90	9.90	**90**	27	2.70	29.70	**500**	150	15	165	**1000**	300	30	330
40	12	1.20	13.20	**100**	30	3.00	33.00	**600**	180	18	198	**2000**	600	60	660
50	15	1.50	16.50	**200**	60	6.00	66.00	**700**	210	21	231	**3000**	900	90	990
60	18	1.80	19.80	**300**	90	9.00	99.00	**800**	240	24	264	**4000**	1200	120	1320
884180	239254	23925.40	263179.40	**890000**	241000	24100	265100	**925000**	251500	25150	276650	**965000**	263500	26350	289850
884190	239257	23925.70	263182.70	**895000**	242500	24250	266750	**930000**	253000	25300	278300	**970000**	265000	26500	291500
884200	239260	23926.00	263186.00	**900000**	244000	24400	268400	**935000**	254500	25450	279950	**975000**	266500	26650	293150
885000	239500	23950.00	263450.00	**905000**	245500	24550	270050	**940000**	256000	25600	281600	**980000**	268000	26800	294800
886000	239800	23980.00	263780.00	**910000**	247000	24700	271700	**945000**	257500	25750	283250	**985000**	269500	26950	296450
887000	240100	24010.00	264110.00	**915000**	248500	24850	273350	**950000**	259000	25900	284900	**990000**	271000	27100	298100
888000	240400	24040.00	264440.00	**920000**	250000	25000	275000	**955000**	260500	26050	286550	**995000**	272500	27250	299750
889000	240700	24070.00	264770.00	**925000**	251500	25150	276650	**960000**	262000	26200	288200	**1000000**	274000	27400	301400

Note: Income-tax payable on taxable income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For income-tax payable on long-term capital gains, refer pp. 162-165.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at rebates of (deductions from) income-tax is to be allowed u/s. 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88B & 88C refer pp. 237-242 & 258.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-298.

† **Surcharge** at the rate of 10% on income-tax is payable where the **taxable income exceeds Rs. 8,50,000. Even in the case of a non-resident, surcharge on income-tax is payable** where the taxable income exceeds Rs. 8,50,000 [Vide item (i) of Paragraph A of Part I of the First Schedule to the Finance (No. 2) Act, 2004]. **In cases, where deduction from income-tax is allowable u/s. 88B & 88C, please do not compute surcharge and total from these columns.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 188.

§ **For estimated annual tax on ''Salaries'' and ''advance tax'' payable during the financial year ending on 31-3-2005, refer page 305.**

Income-tax and surcharge payable over Rs. 10,00,000 taxable income for assessment year 2004-05:

			Income-tax	Surcharge	Total
For every	Rs. 10,000	. . Rs.	3,000.00	300.00	3,300.00
For every	Rs. 1,000	. . Rs.	300.00	30.00	330.00
For every	Rs. 100	. . Rs.	30.00	3.00	33.00
For every	Rs. 10	. . Rs.	3.00	0.30	3.30

EXAMPLES FOR FIRM FOR ASSESSMENT YEAR 2004-05:

(1) M/s. X & Co. is a trading firm consisting of partners Mr. A & Mr. B sharing profits/losses equally. As per partnership deed partner Mr. A is entitled to Rs. 36,000 as simple interest @ 12% p.a. on Rs. 3,00,000 capital contributed by him and working partner Mr. B (who is actively engaged in conducting the affairs of the business of the firm) is entitled to Rs. 84,000 as remuneration. These payments are within the limits specified u/s. 40(b)(iv) & 40(b)(v)[1]. The net profit of the firm[2] (after debiting interest and remuneration to partners) for the financial year ending 31-3-2004 is Rs. 18,500.

(A) TAX PAYABLE BY THE FIRM—

Net profit[2] (after debiting interest & remuneration to partners)	Rs.	18,500
Add: Interest and remuneration paid to partners (Rs. 36,000 + Rs. 84,000)	Rs.	1,20,000
	Rs.	1,38,500
Less: Interest and remuneration paid to partners allowable u/s. 40(b)(iv)/40(b)(v)[1]	Rs.	1,20,000
Taxable income of the firm	Rs.	18,500
I.T. & S.C. on I.T. payable by the firm on taxable income of Rs. 18,500 (Refer table on page 251)	Rs.	6,637

(B) INCOME-TAX PAYABLE BY THE PARTNERS[3]—

	Mr. A	Mr. B
Business income:		
Share in total income of the firm [Excludible u/s. 10(2A)]	Rs. Nil	Rs. Nil
Interest/remuneration received from the firm chargeable as business income u/s. 28(v)	Rs. 36,000	Rs. 84,000
Other sources:		
Interest income on deposits with companies	Rs. 35,000	Rs. 15,000
Gross total income	Rs. 71,000	Rs. 99,000
Less: Deduction u/s. 80D: @ 100% of medical insurance premia paid Rs. 5,000	Rs. 5,000	Rs. 5,000
Taxable income	Rs. 66,000	Rs. 94,000
Income-tax payable on taxable income of Rs. 66,000/Rs. 94,000 (Refer page 244/245)	Rs. 2,200[3]	Rs. 7,800[3]
Aggregate of tax payable by the firm & partners (Rs. 6,637 + Rs. 2,200[3] + Rs. 7,800[3])		Rs. 16,637

(2) In *Example (1)* above if, partner Mr. A is entitled to Rs. 63,000 as simple interest @ 21% on capital Rs. 3,00,000, working partner Mr. B is entitled to Rs. 1,34,000 as remuneration and net profit[2] after debiting the said interest and remuneration is Rs. 18,500, then, the tax payable by the said firm & partners will be as under:

(A) TAX PAYABLE BY THE FIRM—

Net profit[2] (after debiting interest & remneration to partners)	Rs.	18,500
Add: Interest and remuneration paid to partners (Rs. 63,000 + Rs. 1,34,000)	Rs.	1,97,000
	Rs.	2,15,500
Less: Interest paid to Mr. A @ 21% p.a. Rs. 63,000. Allowable u/s. 40(b)(iv) @ 12% p.a. on Rs. 3,00,000	Rs.	36,000
Book-profit[4] for the purpose of section 40(b)(v) [Vide *Explanation* 3 to section 40(b)]	Rs.	1,79,500
Less: Remuneration paid to Mr. B. Rs. 1,34,000. Allowable u/s. 40(b)(v)(2):		
On first Rs. 75,000 of the book-profit @ 90%	Rs. 67,500	
On the next Rs. 75,000 of the book-profit @ 60%	Rs. 45,000	
On the balance Rs. 29,500 [Rs. 1,79,500 *less* Rs. 1,50,000] of the book-profit @ 40%	Rs. 11,800	Rs. 1,24,300
Taxable income of the firm	Rs.	55,200
I.T. & S.C. on I.T. payable by the firm on taxable income of Rs. 55,200 (Refer table on page 251)	Rs.	19,803

[Concluded on facing page]

Note: Payments of interest and/or remuneration to partners shall be allowed as deduction u/s. 40(b) subject to the condition that the said payments are authorised by the deed of partnership. Partnership deed will have to be suitably modified wherever remuneration/interest payments are involved. For details, refer Paras 5 to 7 & 10 of (B) on pp. 195-196.

1. As the payments in respect of interest & remuneration to partners is authorised by the partnership deed and are within the limits specified u/s. 40(b), the said payments are allowable as deduction in computing taxable income of the firm. If it exceeds the limits specified u/s. 40(b), it will be restricted u/s. 40(b) as explained in *Example (2)* above.

2. It is assumed that, net profit is computed in the manner laid down in Chapter IV-D [i.e., sections 28 to 44DA].

3. Income-tax payable by the partners is to be reduced to the extent of rebate of (deduction from) income-tax allowable u/s. 88/88B/88C. Income-tax as reduced by rebate of (deduction from) income-tax is to be increased by a surcharge @ 10% of I.T. if the total (taxable) income exceeds Rs. 8,50,000.

4. 'Book-profit' means the net profit as per profit & loss A/c computed u/s. 28 to 44DA. The remuneration paid/ payable to partners, if debited to P&L A/c, is to be added back to the net profit [*Explanation* 3 to section 40(b)].

[Continued from facing page]

(B) INCOME-TAX PAYABLE BY THE PARTNERS[5]—	Mr. A	Mr. B
Business income:		
Share in total income of the firm [Excludible u/s. 10(2A)]	Rs. Nil	Rs. Nil
Interest/remuneration allowed to firm chargeable as business income u/s. 28(v) read with the proviso [Rs. 36,000/Rs. 1,24,300 and not Rs. 63,000/ Rs. 1,34,000]	Rs. 36,000	Rs. 1,24,300
Other sources:		
Interest income on deposits with companies	Rs. 35,000	Rs. 15,000
Gross total income	Rs. 71,000	Rs. 1,39,300
Less: Deduction u/s. 80D: @ 100% of the medical insurance premia paid Rs. 5,000	Rs. 5,000	Rs. 5,000
Taxable income	Rs. 66,000	Rs. 1,34,300
Income-tax payable on taxable income of Rs. 66,000/Rs. 1,34,300 (Refer page 244/pp. 244-245)	Rs. 2,200[5]	Rs. 15,860[5]
Aggregate of tax payable by the firm & partners (Rs. 19,803 + Rs. 2,200[5] + Rs. 15,860[5])		Rs. 37,863

TABLE VI

INCOME-TAX & SURCHARGE[6] FOR FIRMS ONLY

ASSESSMENT YEAR 2004-05§

Accounting period: Financial year ending 31-3-2004.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT*[7] and *(2) REGULAR ASSESSMENT* for the assessment year 2004-05.

FLAT RATE: INCOME-TAX @ 35%

SURCHARGE: 2.5% OF INCOME-TAX[6]

Taxable Income[8] Rs.	I.T. Rs. P.	S.C.[8] Rs. P.	Total[8] Rs. P.	Taxable Income[8] Rs.	I.T. Rs. P.	S.C.[8] Rs. P.	Total[8] Rs. P.	Taxable Income[8] Rs.	I.T. Rs.	S.C.[8] Rs. P.	Total[8] Rs. P.	Taxable Income[8] Rs.	I.T. Rs.	S.C.[8] Rs. P.	Total[8] Rs. P.
10	3.50	0.09	3.59	**90**	31.50	0.79	32.29	**800**	280	7.00	287.00	**7000**	2450	61.25	2511.25
20	7.00	0.18	7.18	**100**	35.00	0.88	35.88	**900**	315	7.88	322.88	**8000**	2800	70.00	2870.00
30	10.50	0.26	10.76	**200**	70.00	1.75	71.75	**1000**	350	8.75	358.75	**9000**	3150	78.75	3228.75
40	14.00	0.35	14.35	**300**	105.00	2.63	107.63	**2000**	700	17.50	717.50	**10000**	3500	87.50	3587.50
50	17.50	0.44	17.94	**400**	140.00	3.50	143.50	**3000**	1050	26.25	1076.25	**20000**	7000	175.00	7175.00
60	21.00	0.53	21.53	**500**	175.00	4.38	179.38	**4000**	1400	35.00	1435.00	**30000**	10500	262.50	10762.50
70	24.50	0.61	25.11	**600**	210.00	5.25	215.25	**5000**	1750	43.75	1793.75	**40000**	14000	350.00	14350.00
80	28.00	0.70	28.70	**700**	245.00	6.13	251.13	**6000**	2100	52.50	2152.50	**50000**	17500	437.50	17937.50
1000	350	8.75	358.75	**70000**	24500	612.50	25112.50	**250000**	87500	2187.50	89687.50	**650000**	227500	5687.50	233187.50
5000	1750	43.75	1793.75	**80000**	28000	700.00	28700.00	**300000**	105000	2625.00	107625.00	**700000**	245000	6125.00	251125.00
10000	3500	87.50	3587.50	**90000**	31500	787.50	32287.50	**350000**	122500	3062.50	125562.50	**750000**	262500	6562.50	269062.50
20000	7000	175.00	7175.00	**100000**	35000	875.00	35875.00	**400000**	140000	3500.00	143500.00	**800000**	280000	7000.00	287000.00
30000	10500	262.50	10762.50	**120000**	42000	1050.00	43050.00	**450000**	157500	3937.50	161437.50	**850000**	297500	7437.50	304937.50
40000	14000	350.00	14350.00	**140000**	49000	1225.00	50225.00	**500000**	175000	4375.00	179375.00	**900000**	315000	7875.00	322875.00
50000	17500	437.50	17937.50	**150000**	52500	1312.50	53812.50	**550000**	192500	4812.50	197312.50	**950000**	332500	8312.50	340812.50
60000	21000	525.00	21525.00	**200000**	70000	1750.00	71750.00	**600000**	210000	5250.00	215250.00	**1000000**	350000	8750.00	358750.00

5. Income-tax payable by the partners is to be reduced to the extent of rebate of (deduction from) income-tax allowable u/s. 88/88B/88C. Income-tax as reduced by rebate of (deduction from) income-tax is to be increased by a surcharge @ 10% of I.T. if the total (taxable) income exceeds Rs. 8,50,000.

6. Surcharge at the rate of 2.5% on income-tax is payable on the whole amount of income-tax as no ceiling limit of total (taxable) income/ marginal relief is provided in the Finance (No. 2) Act, 2004.

7. Self-assessment tax shall also include interest payable u/s. 234A, 234B & 234C, if any. For details, refer page 188.

8. Where the total (taxable) income of the firm include long-term *(and not short-term)* capital gains, the income-tax on total (taxable) income, as reduced by long-term capital gains, is to be computed with reference to the above table. Income-tax on long-term capital gains is to be computed at the flat rate prescribed in section 112(1)(d)(ii). The income-tax payable by the firm, is the sum total of the income-tax on total (taxable) income [as reduced by the long-term capital gains], and the income-tax on long-term capital gains. The aggregate amount of income-tax so arrived at is to be increased by a surcharge @ 2.5% of such income-tax. The resultant sum so arrived at is the tax payable by the firm.

§. The relevant table for assessment year 2005-06 is given on page 306.

CO-OPERATIVE SOCIETIES[1]

DEDUCTION IN RESPECT OF INCOME OF CO-OPERATIVE SOCIETIES UNDER SECTION 80P(2):

(*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

(iii) the marketing of agricultural produce grown by its members, or

(iv) the purchase of agricultural implements, seeds, live-stock 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, or

(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:

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 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;

(*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 as defined in section 617 of the Companies Act, 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 does not exceed,—

(i) where such co-operative society is a consumers' co-operative society, one hundred thousand rupees; and

(ii) in any other case, 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 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 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.

EXAMPLE: The total income of a co-op. society (other than consumers' co-op. society) for the financial year ending on 31-3-2004 (assessment year 2004-05) under various heads is as under:

(i)	Banking business		Rs. 5,000
(ii)	Income from cottage industry		Rs. 15,000
(iii)	Marketing of agricultural produce grown by its members		Rs. 10,000
(iv)	Income from purchase and sale of agricultural implements to its members		Rs. 10,000
(v)	Profits & gains of business		Rs. 75,000
(vi)	Interest and dividend from other co-operative society		Rs. 10,000
		Gross total income	Rs. 1,25,000

Less:—Deductions under section 80P:

(i)	Banking business [80P(2)(*a*)(i)]	Rs. 5,000	
(ii)	Income from cottage industry [80P(2)(*a*)(ii)]	Rs. 15,000	
(iii)	Marketing of agricultural produce grown by its members [80P(2)(*a*)(iii)]	Rs. 10,000	
(iv)	Income from purchase and sale of agricultural implements to its members [80P(2)(*a*)(iv)]	Rs. 10,000	
(v)	Profits & gains of business [80P(2)(*c*)(ii)]	Rs. 50,000	
(vi)	Interest and dividend from other co-operative society [80P(2)(*d*)]	Rs. 10,000	Rs. 1,00,000
	Taxable income		Rs. 25,000

1. Income of a co-operative society referred to in section 10(27) is exempt [Refer Para 6A.29 on page 209].
The provisions of section 80P are also applicable in respect of Regional Rural Banks [Refer Circular No. 319, dt. 11-1-82: 134 ITR (St.) 165].
For the clarification regarding co-operative society engaged in a cottage industry [Refer Circular No. 722, dt. 19-9-95 : 215 ITR (St.) 115].

INCOME-TAX & SURCHARGE[2] FOR CO-OPERATIVE SOCIETIES

ASSESSMENT YEAR 2004-05§

INCOME BETWEEN Rs. 10 & Rs. 10,000 SLAB RATE: I.T. @ 10% S.C. @ 2.5% of I.T.[2]				**INCOME BETWEEN Rs. 10,000 & Rs. 20,000** SLAB RATE: I.T. @ 20% S.C. @ 2.5% of I.T.[2]				**INCOME ABOVE Rs. 20,000** SLAB RATE: I.T. @ 30% S.C. @ 2.5% of I.T.[2]							
Taxable Income Rs.	I.T. Rs.	S.C.[2] Rs. P.	Total[2] Rs. P.	**Taxable Income Rs.**	I.T. Rs.	S.C.[2] Rs. P.	Total[2] Rs. P.	**Taxable Income Rs.**	I.T. Rs.	S.C.[2] Rs. P.	Total[2] Rs. P.	**Taxable Income Rs.**	I.T. Rs.	S.C.[2] Rs. P.	Total[2] Rs. P.
10	1	0.03	1.03	**10**	2	0.05	2.05	**10**	3	0.08	3.08	**500**	150	3.75	153.75
20	2	0.05	2.05	**20**	4	0.10	4.10	**20**	6	0.15	6.15	**600**	180	4.50	184.50
30	3	0.08	3.08	**30**	6	0.15	6.15	**30**	9	0.23	9.23	**700**	210	5.25	215.25
40	4	0.10	4.10	**40**	8	0.20	8.20	**40**	12	0.30	12.30	**800**	240	6.00	246.00
50	5	0.13	5.13	**50**	10	0.25	10.25	**50**	15	0.38	15.38	**900**	270	6.75	276.75
60	6	0.15	6.15	**60**	12	0.30	12.30	**60**	18	0.45	18.45	**1000**	300	7.50	307.50
70	7	0.18	7.18	**70**	14	0.35	14.35	**70**	21	0.53	21.53	**2000**	600	15.00	615.00
80	8	0.20	8.20	**80**	16	0.40	16.40	**80**	24	0.60	24.60	**3000**	900	22.50	922.50
90	9	0.23	9.23	**90**	18	0.45	18.45	**90**	27	0.68	27.68	**4000**	1200	30.00	1230.00
100	10	0.25	10.25	**100**	20	0.50	20.50	**100**	30	0.75	30.75	**5000**	1500	37.50	1537.50
200	20	0.50	20.50	**200**	40	1.00	41.00	**200**	60	1.50	61.50	**6000**	1800	45.00	1845.00
300	30	0.75	30.75	**300**	60	1.50	61.50	**300**	90	2.25	92.25	**8000**	2400	60.00	2460.00
400	40	1.00	41.00	**400**	80	2.00	82.00	**400**	120	3.00	123.00	**9000**	2700	67.50	2767.50
500	50	1.25	51.25	**10000**	1000	25.00	1025.00	**20000**	3000	75.00	3075.00	**200000**	57000	1425	58425
1000	100	2.50	102.50	**10500**	1100	27.50	1127.50	**25000**	4500	112.50	4612.50	**210000**	60000	1500	61500
1500	150	3.75	153.75	**11000**	1200	30.00	1230.00	**30000**	6000	150.00	6150.00	**220000**	63000	1575	64575
2000	200	5.00	205.00	**11500**	1300	32.50	1332.50	**35000**	7500	187.50	7687.50	**230000**	66000	1650	67650
2500	250	6.25	256.25	**12000**	1400	35.00	1435.00	**40000**	9000	225.00	9225.00	**240000**	69000	1725	70725
3000	300	7.50	307.50	**12500**	1500	37.50	1537.50	**45000**	10500	262.50	10762.50	**250000**	72000	1800	73800
3500	350	8.75	358.75	**13000**	1600	40.00	1640.00	**50000**	12000	300.00	12300.00	**260000**	75000	1875	76875
4000	400	10.00	410.00	**13500**	1700	42.50	1742.50	**60000**	15000	375.00	15375.00	**270000**	78000	1950	79950
4500	450	11.25	461.25	**14000**	1800	45.00	1845.00	**70000**	18000	450.00	18450.00	**280000**	81000	2025	83025
5000	500	12.50	512.50	**14500**	1900	47.50	1947.50	**80000**	21000	525.00	21525.00	**290000**	84000	2100	86100
5500	550	13.75	563.75	**15000**	2000	50.00	2050.00	**90000**	24000	600.00	24600.00	**300000**	87000	2175	89175
6000	600	15.00	615.00	**15500**	2100	52.50	2152.50	**100000**	27000	675.00	27675.00	**310000**	90000	2250	92250
6500	650	16.25	666.25	**16000**	2200	55.00	2255.00	**110000**	30000	750.00	30750.00	**320000**	93000	2325	95325
7000	700	17.50	717.50	**16500**	2300	57.50	2357.50	**120000**	33000	825.00	33825.00	**330000**	96000	2400	98400
7500	750	18.75	768.75	**17000**	2400	60.00	2460.00	**130000**	36000	900.00	36900.00	**340000**	99000	2475	101475
8000	800	20.00	820.00	**17500**	2500	62.50	2562.50	**140000**	39000	975.00	39975.00	**350000**	102000	2550	104550
8500	850	21.25	871.25	**18000**	2600	65.00	2665.00	**150000**	42000	1050.00	43050.00	**360000**	105000	2625	107625
9000	900	22.50	922.50	**18500**	2700	67.50	2767.50	**160000**	45000	1125.00	46125.00	**370000**	108000	2700	110700
9500	950	23.75	973.75	**19000**	2800	70.00	2870.00	**170000**	48000	1200.00	49200.00	**380000**	111000	2775	113775
9700	970	24.25	994.25	**19500**	2900	72.50	2972.50	**180000**	51000	1275.00	52275.00	**390000**	114000	2850	116850
10000	1000	25.00	1025.00	**20000**	3000	75.00	3075.00	**190000**	54000	1350.00	55350.00	**400000**	117000	2925	119925

Note: Where the taxable income consists of long-term *(and not short-term)* capital gains, Income - tax[2] on the taxable income, as reduced by long-term capital gains, is to be computed with reference to above table. Income - tax[2] on long-term capital gains is to be calculated @ the flat rate prescribed [vide section 112(1)(d)(ii)]. The Income - tax[2] payable is, the sum total of Income - tax[2] on taxable income (as reduced by long-term capital gains) and Income - tax[2] on long-term capital gains.

2. Income - tax payable on total income is to be increased by a surcharge at the rate of 2.5% of Income - tax. Surcharge is payable irrespective of monetary ceiling limit of total income and is payable on the whole amount of Income tax, as no marginal relief is provided in the Finance (No. 2) Act, 2004.

§ For assessment year 2005-06, the basic rates of I.T. and S.C. on I.T. are the same as for assessment year 2004-05 except that the additional surcharge (i.e., Education Cess) at the rate of 2% of the aggregate amount of I.T. & S.C. is also payable. For the purpose of payment of advance tax during the financial year 2004-05, calculate additional surcharge @ 2% of total of I.T. & S.C. shown in column nos. 4, 8, 12 & 16 in respect of taxable income shown in column nos. 1, 5, 9 & 13. The aggregate of I.T., S.C. & addl. S.C. is the advance tax payable during the Financial year 2004-05.

INCOME-TAX & SURCHARGE[1] FOR PRIVATE AND PUBLIC LIMITED COMPANIES

ASSESSMENT YEAR 2004-05§

Taxable Income[2]	DOMESTIC COMPANY (Private & Public)			FOREIGN COMPANY					
				Royalties and fees[3]			On the balance, if any, of the total income		
	I.T. @ 35%	S.C. @ 2.5% of I.T.[1]	Total	I.T. @ 50%	S.C. @ 2.5% of I.T.[1]	Total	I.T. @ 40%	S.C. @ 2.5% of I.T.[1]	Total
Rs.	Rs. P.	Rs. P.	Rs. P.	Rs.	Rs. P.	Rs. P.	Rs.	Rs. P.	Rs. P.
10	3.50	0.09	3.59	5	0.13	5.13	4	0.10	4.10
20	7.00	0.18	7.18	10	0.25	10.25	8	0.20	8.20
30	10.50	0.26	10.76	15	0.38	15.38	12	0.30	12.30
40	14.00	0.35	14.35	20	0.50	20.50	16	0.40	16.40
50	17.50	0.44	17.94	25	0.63	25.63	20	0.50	20.50
60	21.00	0.53	21.53	30	0.75	30.75	24	0.60	24.60
70	24.50	0.61	25.11	35	0.88	35.88	28	0.70	28.70
80	28.00	0.70	28.70	40	1.00	41.00	32	0.80	32.80
90	31.50	0.79	32.29	45	1.13	46.13	36	0.90	36.90
100	35	0.88	35.88	50	1.25	51.25	40	1	41
200	70	1.75	71.75	100	2.50	102.50	80	2	82
300	105	2.63	107.63	150	3.75	153.75	120	3	123
400	140	3.50	143.50	200	5.00	205.00	160	4	164
500	175	4.38	179.38	250	6.25	256.25	200	5	205
600	210	5.25	215.25	300	7.50	307.50	240	6	246
700	245	6.13	251.13	350	8.75	358.75	280	7	287
800	280	7.00	287.00	400	10.00	410.00	320	8	328
900	315	7.88	322.88	450	11.25	461.25	360	9	369
1,000	350	8.75	358.75	500	12.50	512.50	400	10	410
2,000	700	17.50	717.50	1,000	25.00	1,025.00	800	20	820
3,000	1,050	26.25	1,076.25	1,500	37.50	1,537.50	1,200	30	1,230
4,000	1,400	35.00	1,435.00	2,000	50.00	2,050.00	1,600	40	1,640
5,000	1,750	43.75	1,793.75	2,500	62.50	2,562.50	2,000	50	2,050
6,000	2,100	52.50	2,152.50	3,000	75.00	3,075.00	2,400	60	2,460
7,000	2,450	61.25	2,511.25	3,500	87.50	3,587.50	2,800	70	2,870
8,000	2,800	70.00	2,870.00	4,000	100.00	4,100.00	3,200	80	3,280
9,000	3,150	78.75	3,228.75	4,500	112.50	4,612.50	3,600	90	3,690
10,000	3,500	87.50	3,587.50	5,000	125	5,125	4,000	100	4,100
20,000	7,000	175.00	7,175.00	10,000	250	10,250	8,000	200	8,200
30,000	10,500	262.50	10,762.50	15,000	375	15,375	12,000	300	12,300
40,000	14,000	350.00	14,350.00	20,000	500	20,500	16,000	400	16,400
50,000	17,500	437.50	17,937.50	25,000	625	25,625	20,000	500	20,500
60,000	21,000	525.00	21,525.00	30,000	750	30,750	24,000	600	24,600
70,000	24,500	612.50	25,112.50	35,000	875	35,875	28,000	700	28,700
80,000	28,000	700.00	28,700.00	40,000	1,000	41,000	32,000	800	32,800
90,000	31,500	787.50	32,287.50	45,000	1,125	46,125	36,000	900	36,900
1,00,000	35,000	875	35,875	50,000	1,250	51,250	40,000	1,000	41,000
2,00,000	70,000	1,750	71,750	1,00,000	2,500	1,02,500	80,000	2,000	82,000
3,00,000	1,05,000	2,625	1,07,625	1,50,000	3,750	1,53,750	1,20,000	3,000	1,23,000
4,00,000	1,40,000	3,500	1,43,500	2,00,000	5,000	2,05,000	1,60,000	4,000	1,64,000
5,00,000	1,75,000	4,375	1,79,375	2,50,000	6,250	2,56,250	2,00,000	5,000	2,05,000
6,00,000	2,10,000	5,250	2,15,250	3,00,000	7,500	3,07,500	2,40,000	6,000	2,46,000
7,00,000	2,45,000	6,125	2,51,125	3,50,000	8,750	3,58,750	2,80,000	7,000	2,87,000
8,00,000	2,80,000	7,000	2,87,000	4,00,000	10,000	4,10,000	3,20,000	8,000	3,28,000
9,00,000	3,15,000	7,875	3,22,875	4,50,000	11,250	4,61,250	3,60,000	9,000	3,69,000
10,00,000	3,50,000	8,750	3,58,750	5,00,000	12,500	5,12,500	4,00,000	10,000	4,10,000
20,00,000	7,00,000	17,500	7,17,500	10,00,000	25,000	10,25,000	8,00,000	20,000	8,20,000
30,00,000	10,50,000	26,250	10,76,250	15,00,000	37,500	15,37,500	12,00,000	30,000	12,30,000
40,00,000	14,00,000	35,000	14,35,000	20,00,000	50,000	20,50,000	16,00,000	40,000	16,40,000
50,00,000	17,50,000	43,750	17,93,750	25,00,000	62,500	25,62,500	20,00,000	50,000	20,50,000
60,00,000	21,00,000	52,500	21,52,500	30,00,000	75,000	30,75,000	24,00,000	60,000	24,60,000
70,00,000	24,50,000	61,250	25,11,250	35,00,000	87,500	35,87,500	28,00,000	70,000	28,70,000
80,00,000	28,00,000	70,000	28,70,000	40,00,000	1,00,000	41,00,000	32,00,000	80,000	32,80,000
90,00,000	31,50,000	78,750	32,28,750	45,00,000	1,12,500	46,12,500	36,00,000	90,000	36,90,000
1,00,00,000	35,00,000	87,500	35,87,500	50,00,000	1,25,000	51,25,000	40,00,000	1,00,000	41,00,000

1. Surcharge at the rate of 2.5% on income-tax is payable by the "Domestic Company" and also by the "Foreign Company" on the whole amount of income-tax as no ceiling limit of total (taxable) income/marginal relief is provided in the Paragraph E of Part I of the First Schedule to the Finance (No. 2) Act, 2004.

2. Refer footnote No. 7 on page 257.

3. Refer footnote No. 8 on page 257.

§ Relevant table for assessment year 2005-06 is given on page 307.

COMPUTATION OF INCOME-TAX, SURCHARGE & ADDITIONAL SURCHARGE IN THE CASES OF A DOMESTIC COMPANY:

Rate of income-tax, surcharge on income-tax and additional surcharge on I.T. & S.C. in the case of a domestic company in which:

(a) the public are ***not*** substantially interested (closely-held company), and
(b) the public are substantially interested (widely-held company):

	ASSESSMENT YEAR				
	2004-05		*2005-06*		
	Rate of I.T.	S.C.†	I.T.	S.C.†	Addl. S.C.*
On the whole of the total income [as reduced by long-term capital gains[4]]	35%	2.5% of I.T.	35%	2.5% of I.T.	2% of I.T.&S.C.

		ASSESSMENT YEAR			
		2004-05		*2005-06*	
EXAMPLE: (**1**)	The total income, as reduced by long-term capital gains, of a domestic company is	Rs.	50,000	Rs.	60,000
	I.T. @ 35% on total (taxable) income Rs. 50,000/Rs. 60,000	Rs.	17,500	Rs.	21,000
	Surcharge @ 2.5% on income-tax Rs. 17,500	Rs.	438	Rs.	—
	Surcharge @ 2.5% on income-tax Rs. 21,000	Rs.	—	Rs.	525
	Additional surcharge @ 2% on aggregate of I.T. & S.C. Rs. 21,525	Rs.	—	Rs.	431
	Total tax/advance tax	Rs.	17,938	Rs.	21,956

ASSESSMENT YEAR 2004-05:

EXAMPLE: (**2**) The total income of a domestic company for the financial year ending on 31-3-2004 (assessment year 2004-05) is:

(a) COMPUTATION OF TOTAL (TAXABLE) INCOME:

1.	Income from business			Rs.	15,60,000
2.	Capital gains:				
	(a) Short-term capital gains on transfer of capital assets [arose on 18-12-2003]			Rs.	20,000
	(b) Long-term capital gains on transfer of capital assets being land:				
	Sale proceeds [received on 11-12-2003]	Rs.	4,98,400		
	Less: Cost of acquisition [acquired on 10-1-1982]	Rs.	80,000		
	Indexed cost of acquisition [vide 2nd proviso to section 48]: Rs. 80,000 (cost of acquisition) × 463[5] (Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 100[5] (Cost Inflation Index of the financial year of acquisition i.e., 1981-82)	Rs.	3,70,400	Rs.	1,28,000
3.	Dividend income from domestic company referred to in section115-O	Rs.	1,40,000		
	Less: Exemption u/s. 10(34)	Rs.	1,40,000	Rs.	NIL
	Gross total income inclusive of long-term capital gains		(A)	Rs.	17,08,000
	Less: Long-term *(and not short-term)* capital gains [Refer 2(b)]		(B)	Rs.	1,28,000
	Gross total income exclusive of long-term capital gains		(C)	Rs.	15,80,000
	Less: Deduction under Chapter VI-A:				
	Donations to approved charities	Rs.	1,60,000		
	Deduction u/s. 80G: Qualifying donations should not exceed 10% of gross total income as reduced by deductions under Chapter VI-A and also long-term capital gains [Refer (C)] i.e., 10% of Rs. 15,80,000	Rs.	1,58,000		
	50% of qualifying amount of Rs. 1,58,000			Rs.	79,000
	Total (taxable) income exclusive of long-term capital gains		(D)	Rs.	15,01,000
	Add: Long-term capital gains [(Refer (B)]		(E)	Rs.	1,28,000
	Total (taxable) income inclusive of long-term capital gains		(F)	Rs.	16,29,000

4. Refer footnote No. 7 on page 257.
5. For Notification on Cost Inflation Index, refer page 145 /cover page 3.

† For assessment years 2004-05 & 2005-06, surcharge at the rate of 2.5% on income-tax is payable by a "Domestic company" and also by a "Foreign company", irrespective of ceiling limit of total (taxable) income. Surcharge on income-tax is also payable by such companies in respect of income-tax on long-term capital gains computed u/s. 112(1).

* For assessment year 2005-06, additional surcharge (i.e., Education Cess) at the rate of 2% of aggregate of I.T. & S.C. is payable by a "Domestic company" and also by a "Foreign company", irrespective of ceiling limit of total (taxable) income. Surcharge on I.T. & Addl. S.C. on I.T. & S.C. is also payable by such companies in respect of income-tax on long-term capital gains computed u/s. 112(1).

(b) COMPUTATION OF TAX:

Income-tax @ 35% on Rs. 15,01,000 [Total (taxable) income exclusive of long-term capital gains. Refer (D)]	Rs.	5,25,350
Add: Income-tax @ 20% on Rs. 1,28,000 long-term capital gains [Refer (E)]	Rs.	25,600
Income-tax payable on total (taxable) income of Rs. 16,29,000 [Refer (F)]	Rs.	5,50,950
Add: Surcharge @ 2.5% on income-tax Rs. 5,50,950	Rs.	13,774
Tax payable on total (taxable) income of Rs. 16,29,000 [Refer (F)]	Rs.	5,64,724

ASSESSMENT YEAR 2004-05:

EXAMPLE: (**3**) The total income of a domestic company for the financial year ending on 31-3-2004 (assessment year 2004-05) is as under :

(a) COMPUTATION OF TOTAL (TAXABLE) INCOME:

1.	Income from business		Rs.	17,40,000
2.	Long-term capital gains on transfer of capital assets being land:			
	Sale proceeds [received on 11-12-2003]	Rs. 10,10,800		
	Less: Cost of acquisition [acquired on 10-1-1985] Rs. 2,00,000			
	Indexed cost of acquisition [vide 2nd proviso to section 48]: Rs. 2,00,000 (cost of acquisition) × 463[6] (Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 125[6] (Cost Inflation Index of the financial year of acquisition i.e., 1984-85)	Rs. 7,40,800	Rs.	2,70,000
3.	Income from units of Mutual Fund/Administrator of specified undertaking/specified company	Rs. 3,30,000		
	Less: Exemption u/s. 10(35)	Rs. 3,30,000	Rs.	NIL
Gross total income inclusive of long-term capital gains		(A)	Rs.	20,10,000
Less: Long-term capital gains [Refer 2]		(B)	Rs.	2,70,000
Gross total income exclusive of long-term capital gains		(C)	Rs.	17,40,000
Less: Deduction under Chapter VI-A:				
Donations to approved charities	Rs. 2,50,000			
Deduction u/s. 80G: Qualifying donations should not exceed 10% of gross total income as reduced by deductions under Chapter VI-A and also long-term capital gains [Refer (C)] (i.e., 10% of Rs. 17,40,000)	Rs. 1,74,000			
50% of qualifying amount of Rs. 1,74,000			Rs.	87,000
Total (taxable) income exclusive of long-term capital gains		(D)	Rs.	16,53,000
Add: Long-term capital gains [Refer (B)]		(E)	Rs.	2,70,000
Total (taxable) income inclusive of long-term capital gains		(F)	Rs.	19,23,000

(b) COMPUTATION OF TAX:

Income-tax @ 35% on Rs. 16,53,000 [Total (taxable) income exclusive of long-term capital gains. Refer (D)]	Rs.	5,78,550
Add: Income-tax @ 20% on Rs. 2,70,000 long-term capital gains [Refer (E)]	Rs.	54,000
Income-tax payable on total (taxable) income of Rs. 19,23,000 [Refer (F)]	Rs.	6,32,550
Add: Surcharge @ 2.5% on income-tax Rs. 6,32,550	Rs.	15,814
Tax payable on total (taxable) income of Rs. 19,23,000 [Refer (F)]	Rs.	6,48,364

6. For Notification on Cost Inflation Index, refer page 145 /cover page 3.

WEALTH-TAX EXAMPLE FOR COMPANY

THE ABRIDGED BALANCE SHEET OF A & CO., LTD. AS AT 31-3-2004:

Liabilities & capital	Rs.	**Assets & properties:**	Book value Rs.	Value as per Schedule III Rs.
Share capital (paid-up)	15,00,000	Plant & Machinery	1,50,000	*
Reserves & surplus	1,50,000	Factory building	6,00,000	*
Secured loans (for purchase of plot of land)	75,000	Plot of land (Purchased in Jan. 2003)††	1,90,000	†4,95,000
Sundry creditors for goods & expenses	2,75,000	Motor car††	1,00,000	††2,00,000
		Jewellery††	5,50,000	††30,00,000
		Sundry debtors	4,00,000	*
		Cash & Bank balances	10,000	*
Total	20,00,000	Total	20,00,000	

Value as per Schedule III of specified assets liable to wealth-tax	Rs. 36,95,000
Less: Secured loans for purchase of plot of land	Rs. ‡75,000
Net wealth of the company	Rs. 36,20,000
Wealth-tax on Rs. 15,00,000 net wealth	Rs. Nil
Wealth-tax on the balance Rs. 21,20,000 net wealth @ flat rate of 1%	Rs. 21,200
Wealth-tax payable for the assessment year 2004-05	Rs. **21,200

*These assets are not assets within the meaning of section 2(ea) and hence question of value as per Schedule III does not arise. For further details, refer item (7) on page 262.

††These assets are not held as stock-in-trade in a business carried on by the company.

†Land is not proposed to be utilised for industrial purposes for a period of two years from the date of its acquisition.

‡Loan of Rs. 75,000 was incurred for the purchase of plot of land and deductible under section 2(m) of the Wealth-tax Act, 1957.

**Wealth-tax liability is not deductible as a debt u/s. 2(m) vide Circular No. 663, dt. 28-9-1993 [For gist of this circular, refer item 3 on page 334].

7. Where the total (taxable) income of the company consists of long-term *(and not short-term)* capital gains, the income-tax/advance tax on the taxable income, as reduced by long-term capital gains, is to be computed with reference to the table given on page 254 (for assessment year 2004-05)/307 (for assessment year 2005-06). Income-tax/advance tax on long-term capital gains is to be calculated @ the prescribed flat rate, in the case of domestic company/foreign company [vide section 112(1)]. The income-tax/advance tax payable by such companies is, the sum total of the income-tax/advance tax on total (taxable) income (as reduced by long-term capital gains) and income-tax/advance tax on long-term capital gains.

In the case of a 'Domestic company' and also a "Foreign company", aggregate of income-tax/advance tax payable as computed above is to be increased by surcharge @ 2.5% (for assessment year 2004-05)/2.5% (for assessment year 2005-06), of income-tax, and additional surcharge @2% (for assessment year 2005-06), of I.T. & S.C.

8. Royalties or fees for technical services [other than income referred to in section 44DA(1), from assessment year 2004-05 and onwards], received in pursuance of an agreement made after 31st day of March, 1961/29th day of February, 1964, respectively, but before the 1st day of April, 1976, as approved by the Central Government.

Royalties or fees for technical services received by a foreign company from Government or an Indian concern in pursuance of an agreement made by it with Government or the Indian concern after 31st March, 1976, and such agreement with an Indian concern is approved by the Central Government or where it relates to a matter included in the industrial policy of the Government of India, the agreement is in accordance with that policy, is chargeable to tax u/s. 115A(1)(b) at a uniform flat rate of —

(a) @ 30%, if such royalties/fees are received in pursuance of an agreement made on or before 31-5-97; &

(b) @ 20%, if such royalties/fees are received in pursuance of an agreement made after 31-5-97.

For this purpose, 'royalty' means consideration (including any lump sum consideration but excluding any consideration which would be income of the recipient chargeable under the head "Capital gains") and "fees for technical services" means any consideration (including any lump sum consideration) [Vide *Explanation 2* to section. 9(1)(vi) and 9(1)(vii)].

The inter-corporate dividends received by foreign company is liable to income-tax at a flat rate of 20% [Section 115A (1)(a)(A)]. However, dividends referred to in section 115-O is not liable to income-tax and is exempt: (a) u/s. 10 (33), in relation to assessment years 1998-99 to 2002-03; and (b) u/s. 10(34), in relation to assessment year 2004-05 and subsequent years.

Interest received by Foreign company from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency, is liable to income-tax at a flat rate of 20% [Section 115A(1)(a)(B)].

Income in respect of units, purchased in foreign currency by a foreign company, of a Mutual Fund specified u/s. 10(23D) or of the Unit Trust of India, if any, included in the total (taxable) income, is liable to income-tax at a flat rate of 20% [Section 115A(1)(a)(C)]. However, income in respect of such units (not being capital gain) is not liable to income-tax and is exempt: (a) u/s. 10(33), in relation to assessment years 2000-01 to 2002-03; and (b) u/s. 10(35), in relation to assessment year 2004-05 and subsequent years.

[Continued from page 242]

EXAMPLE FOR REBATE OF (DEDUCTION FROM) INCOME-TAX U/S. 88C:

For assessment year 2004-05, Ms. B, who has not attained age of 65 years on 31-3-2004, has gross total income of Rs. 1,40,000 which includes interest from banks Rs. 14,000. She has invested Rs. 50,000 in National Savings Certificates VIIIth Issue on 1-1-2004. The tax payable by her after availing of rebates (deductions) u/s. 88 and u/s. 88C is as under:

Gross total income			Rs. 1,40,000
Less: Deduction under Chapter VI-A:			
Deduction u/s. 80L:			
Interest from banks Rs. 14,000.			
Maximum deduction u/s. 80L(1)			Rs. 12,000
Total (taxable) income			Rs. 1,28,000
Income-tax on Rs. 1,28,000 total (taxable) income (Refer page 245)			Rs. 14,600
Less: (1) Deduction from income-tax u/s. 88C:			
Since Ms. B, has *not* attained age of 65 years during the previous year i.e., financial year 2003-04, she is entitled to deduction u/s. 88C @ 100% of income-tax payable Rs. 14,600 [being I.T. on total (taxable) income Rs. 1,28,000] subject to a limit of Rs. 5,000			Rs. 5,000
Income-tax payable after availing deduction u/s. 88C			Rs. 9,600
(2) Deduction from income-tax u/s. 88:			
Investment in NSC VIIIth Issue		Rs. 50,000	
Deduction @ 20% of Rs. 50,000 u/s. 88(1)(i) [Refer 5(A)(a) on page 237]		Rs. 10,000	
Amount of deduction u/s. 88 restricted u/s. 87(2) to Rs. 9,600 [Rs. 14,600 being the amount of income-tax chargeable on Rs. 1,28,000 total (taxable) income *less* rebate u/s. 88C Rs. 5,000]			Rs. 9,600
Income-tax payable on Rs. 1,28,000 total (taxable) income after availing deductions from income-tax u/s. 88 & 88C read with section 87(2)			Rs. Nil

Notes: 1. Deduction from income-tax u/s. 88C is to be first availed of before availing deduction from income-tax under Chapter VIII-A (Refer section 88C).

2. Deduction from income-tax u/s. 88C (and not u/s. 88) is allowable even on income-tax payable on total (taxable) income inclusive of long-term capital gain [Vide section 112(3)]. Where the total (taxable) income includes long-term capital gain, refer *Examples* No. (viii) to (x) on pp. 163-165.

3. If Ms. B has attained age of 65 years on or before 31-3-2004, the deduction from income-tax is allowable under section 88B and not under section 88C.

WEALTH-TAX

CHARGE OF WEALTH-TAX

Assessment years 2001-02 to 2004-05:

Sub-section (2) of section 3 of the Wealth-tax Act provides that wealth-tax is to be charged in the case of an assessee being:

	Rate of wealth-tax
(a) an individual or a Hindu undivided family:	
(1) where the net wealth does not exceed Rs. 15,00,000	Nil;
(2) where the net wealth exceeds Rs. 15,00,000	1% of the amount by which the net wealth exceeds Rs. 15,00,000.
(b) a company:	
(1) where the net wealth does not exceed Rs. 15,00,000	Nil;
(2) where the net wealth exceeds Rs. 15,00,000	1% of the amount by which the net wealth exceeds Rs. 15,00,000.

RULES FOR VALUATION OF ASSETS

SCHEDULE III

[See section 7(1)]

RULES FOR DETERMINING THE VALUE OF ASSETS

For the text of the rules for determining the value of assets, refer pp. 251-255 of the ITRR 1998-99 (60th Year of Publication).

EXEMPTIONS UNDER SECTION 5 OF THE WEALTH-TAX ACT

ASSESSMENT YEARS 2001-02 to 2004-05

Exemptions in respect of certain assets.— Wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee—

(i) any property held by him under trust or other legal obligation for any public purpose of a charitable or religious nature in India:

Provided that nothing contained in this clause shall apply to any property forming part of any business, not being a business referred to in clause *(a)* or clause *(b)* of sub-section (4A) of section 11 of the Income-tax Act in respect of which separate books of account are maintained or a business carried on by an institution, fund or trust referred to in clause (23B) or clause (23C) of section 10 of that Act;

(ii) the interest of the assessee in the coparcenary property of any Hindu undivided family of which he is a member;

(iii) any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was his official residence by virtue of a declaration by the Central Government under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(iv) jewellery in the possession of any Ruler, not being his personal property, which has been recognised before the commencement of this Act, by the Central Government as his heirloom or, where no such recognition exists, which the Board may, subject to any rules that may be made by the Central Government in this behalf, recognise as his heirloom at the time of his first assessment to wealth-tax under this Act:

Provided that in the case of jewellery recognised by the Central Government as aforesaid, such recognition shall be subject to the following conditions, namely:—

(i) that the jewellery shall be permanently kept in India and shall not be removed outside India except for a purpose and period approved by the Board;

(ii) that reasonable steps shall be taken for keeping the jewellery substantially in its original shape;

(iii) that reasonable facilities shall be allowed to any officer of Government authorised by the Board in this behalf to examine the jewellery as and when necessary; and

(iv) that if any of the conditions hereinbefore specified is not being duly fulfilled, the Board may, for reasons to be recorded in writing, withdraw the recognition retrospectively with effect from the date of commencement of clause (b) of section 5 of the Rulers of Indian States (Abolition of Privileges) Act, 1972, and in such a case, wealth-tax shall become payable by the Ruler for all the assessment years after such commencement for which the jewellery was exempted on account of the recognition.

Explanation.— For the purposes of clause (iv) of the foregoing proviso, the fair market value of any jewellery on the date of withdrawal of the recognition in respect thereof shall be deemed to be the fair market value of such jewellery on each successive valuation date relevant for the assessment years referred to in the said proviso:

Provided further that the aggregate amount of wealth-tax payable in respect of any jewellery under clause (iv) of the foregoing proviso for all the assessment years referred to therein shall not in any case exceed fifty per cent. of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn;

(v) in the case of an assessee, being a person of Indian origin or a citizen of India (hereafter in this clause referred to as such person) who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanently residing therein, moneys and the value of assets brought by him into India and the value of the assets acquired by him out of such moneys within one year immediately preceding the date of his return and at any time thereafter:

Provided that this exemption shall apply only for a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

Explanation 1.— A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India;

Explanation 2.—For the removal of doubts, it is hereby declared that moneys standing to the credit of such person in a Non-resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973, and any rules made thereunder, on the date of his return to India, shall be deemed to be moneys brought by him into India on that date;

(vi) one house or part of a house or a plot of land belonging to an individual or a Hindu undivided family:

Provided that wealth-tax shall not be payable by an assessee in respect of an asset being a plot of land comprising an area of five hundred square metres or less.

SHORT NOTES ON THE WEALTH-TAX ACT, 1957:

(For and from the assessment years 2001-02 to 2004-05)

The Wealth-tax Act which came into force from assessment year 1957-58 occupies a place of importance in the scheme of taxation. It is, therefore, necessary to understand the broad and salient features of this Act in as simple a language as possible.

GENERAL

(1) Assessee:

[Section 2(c)]

"Assessee" means a person by whom wealth-tax or any other sum of money (e.g., interest, penalty) is payable under the Wealth-tax Act or in respect of whom any proceeding under that Act has been taken for determining the wealth-tax payable by him or the amount of refund due to him and includes:

(1) legal representative of a deceased person [*Section 19*];

(2) executor or executors of the estate of a deceased person [*Section 19A*]; and

(3) a person deemed to be the agent of any person residing outside India [*Section 22*].

(2) Assessment year:

[Section 2(d)]

An assessment year means a period of 12 months commencing on 1st April and ending on 31st March of the following year. For instance, assessment year 2004-05 commenced on 1st April, 2004 and will end on 31st March, 2005.

(3) Valuation date:

[Section 2(q)]

"Valuation date" in relation to an "assessment year" means the last day of the previous year as defined under section 3 of the Income-tax Act.

The valuation date will be 31st March being the last day of the uniform previous year in all cases.

(4) Assessable entities:

(Section 3)

Persons chargeable to wealth-tax:

Under section 3 of the Wealth-tax Act, the following persons are chargeable to wealth-tax on their net wealth as on the valuation date corresponding to the assessment year:

(1) Individual, (2) Hindu undivided family, and (3) Company.

The word "Individual" has not been defined in the Wealth-tax Act but on the basis of court decisions, it has been given a wide meaning. The word "Individual", therefore, means not only a human being but also includes a group of persons forming an unit.

Rates at which wealth-tax is to be charged:

While income-tax is chargeable on the total income of an assessee at the rates laid down in the annual Finance Act of the relevant year, the wealth-tax is to be charged under section 3(2) of the Wealth-tax Act:

(*a*) in respect of an individual and a Hindu undivided family, at the flat rate of 1% of the net wealth exceeding Rs. 15 lakhs.

(*b*) in respect of a company [as defined in section 2(17) of the Income-tax Act], at the flat rate of 1% of the net wealth exceeding Rs. 15 lakhs.

(5) Residential status:

Explanation 1 to section 6 of the Wealth-tax Act lays down that an individual or a Hindu undivided family shall be deemed to be "not resident in India" or "resident but not ordinarily resident in India" during the year ending on the valuation date, if in respect of that year, the individual or the Hindu undivided family, as the case may be, is "not resident in India" or "resident but not ordinarily resident in India" within the meaning of the Income-tax Act. The residential status as explained on PP. 50-52 under the "Short notes on the Income-tax Act, 1961" also holds good under the Wealth-tax Act.

An individual having balance to his credit in a Non-resident (External) Account, the interest whereof is exempt under section 10(4)(ii) of the Income-tax Act, 1961, shall be deemed to be not resident in India during the year ending on valuation date, if in respect of that year he is resident outside India as defined under section 2(q) of the Foreign Exchange Regulation Act, 1973 (Refer page 53) [vide *Explanation* 1A to section 6].

(6) Citizenship of India:

The tax liability under the Wealth-tax Act is determined on the basis of residential status of an assessee as also on the basis of his being a citizen of India or not a citizen of India. The term "Citizen" is defined in Article 5 of the Constitution. In order to be a citizen of India, a person must have domicile in the territory of India and must satisfy any of the following three conditions:

(1) he must have been born in India; or

(2) either of his parents must have been born in India; or

(3) he must have been ordinarily resident in India for not less than five years before 26-1-1950.

A person would cease to be a citizen of India if he has voluntarily acquired the citizenship of any foreign State.

(7) Assets which fall outside the purview of the Wealth-tax Act:

Asset other than assets specified in section 2(ea) are outside the purview of the Wealth-tax Act and hence not chargeable to wealth-tax. Wealth-tax is chargeable only on assets specified in section 2(ea). The assets specified in section 2(ea) are:

(*a*) Any guest house; residential house[1]; commercial property; and/or farm house situated within 25 kilometres from the local limits of any municipality[2] or a cantonment board; but excluding:

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having gross annual salary of less than Rs. 5,00,000,

(2) any residential house forming part of stock-in-trade,

(3) any house for commercial purposes (i.e., commercial property) which forms part of stock-in-trade,

(4) any house which is occupied by the assessee for the purposes of any business or profession carried on by him,

(5) any residential property that has been let-out for a minimum period of 300 days in the previous year, and

(6) any property in the nature of commercial establishments or complexes;

(*b*) Motor cars, other than those used in assessee's hiring business or used as stock-in-trade;

(*c*) Jewellery[3], bullion, and furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, other than those used as stock-in-trade by the assessee;

(*d*) Yachts, boats and aircrafts, other than those used by the assessee for commercial purposes;

(*e*) Urban land, being land situated in any area, within the jurisdiction of a municipality[4] or a cantonment board which has a population of not less than 10,000; or within 8 kilometres from the local limits of such municipality[4] or a cantonment board, as the Central Government may notify[5].

However, urban land shall not include:

(1) land on which construction of a building is not permissible under any law or the land on which building is constructed with the approval of the appropriate authority,

(2) any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him, and

(3) any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him;

(*f*) Cash in hand, in excess of Rs. 50,000, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of account.

The assets mentioned above are chargeable to wealth tax without any exemption. The other assets such as, shares, debentures, deposits, units, loans advanced, etc., etc. are not liable to wealth-tax [Refer *Example* on page 274].

1. One house or part of a house or a plot of land not exceeding 500 sq. metres belonging to an individual or a Hindu undivided family is exempt without monetary ceiling u/s. 5(vi).

2. "Municipality", i.e., whether known as municipality, municipal corporation or by any other name.

3. The term "Jewellery" includes (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel; (b) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any wearing apparel [*Explanation* 1 to section 2(ea)]. However, "Jewellery" does not include the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.

4. "Municipality", i.e., whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name.

5. For areas notified as urban, refer Notification No. 871(E), dt. 9-11-1993 [205 ITR (St.) 1].

(8) Net wealth:

[Section 2(m)]

Net wealth means the aggregate value of all the chargeable assets [specified in section 2(ea), refer item (7) on page 262], wherever located, belonging to the assessee on the valuation date including assets which are to be included in his net wealth under section 4 as diminished by the aggregate value of all the debts owed by the assessee on the valuation date which have been incurred in relation to the assets specified in section 2(ea).

However, wealth-tax liability[6] on the aforesaid assets will not be deductible for arriving at the net wealth u/s. 2(m).

(9) Incidence of tax on the basis of citizenship and residential status:

A. *In the case of an assessee who is a citizen of India,* the tax liability will be as under:

(i) If he is "resident and ordinarily resident", he will be chargeable to tax in respect of—

(*a*) the value of the assets and debts located in India, and

(*b*) the value of the assets and debts located outside India.

(ii) If he is "resident but not ordinarily resident" or "non-resident", he will be chargeable to tax in respect of the value of all assets and debts located in India except the value of assets in respect of which interest is not to be included in total income under section 10 of the Income-tax Act. The value of assets and debts located outside India is exempt in his case under section 6 of the Wealth-tax Act.

B. *In the case of an assessee who is not a citizen of India,* the tax liability will be as under:

If he is "resident and ordinarily resident" or "resident but not ordinarily resident" or "non-resident", he will be chargeable to tax on net wealth located in India except the assets in respect of which interest is not to be included in total income under section 10 of the Income-tax Act. The value of assets and debts located outside India is exempt in his case under section 6 of the Wealth-tax Act.

(10) Valuation of assets:

[Section 7]

Value of any asset, other than cash, belonging to the assessee, shall be its value as on the valuation date determined in the manner laid down in Schedule III to the Wealth-tax Act and not under the Wealth-tax Rules. This Schedule contains 21 Rules for determining the value of assets as stated hereunder:

PART	RULE	VALUATION IN RESPECT OF:	FOR TEXT OF THE RULE
A	1 & 2	Applicability of rules & definitions	Refer page 251 of ITRR 1998-99.
B	3 to 8	Immovable property	Refer page 252-253 of ITRR 1998-99.
C[7]	9 to 13[7]	Shares in, or debentures of, companies[7]	Refer page 202-204 of ITRR 1992-93.
D	14	Assets of business as a whole	Refer page 253 of ITRR 1998-99.
E	15 & 16	Interest in firm/AOP of partner/member	Refer page 254 of ITRR 1998-99.
F	17	Life interest	Refer page 255 of ITRR 1998-99.
G	18 & 19	Jewellery	Refer page 255 of ITRR 1998-99.
H	20 & 21	Assets other than the assets stated above	Refer page 255 of ITRR 1998-99.

Any provision made in the trust deed giving right to the beneficiary or any other person to acquire or purchase any property of the trust at a stipulated price under the terms of the trust deed or restrictive covenant in any instrument of transfer is to be ignored for the purposes of determining the market price of such property as on the valuation date. Thus, the restrictive clauses in the trust deed or in the instrument of transfer will be disregarded for the purpose of determining the market value of such property chargeable to wealth-tax [Rule 21 of the Schedule III].

(a) Valuation of immovable property:

(Rules 3 to 8 of Part B of Schedule III)

Valuation of any immovable property for the purpose of section 7(1) of the Wealth-tax Act, 1957 is to be made in accordance with the provisions contained in Rules 3 to 8 of Schedule III. These rules apply to any immovable property whether it is residential or not.

6. The liability under the Wealth-tax Act is not a debt owed by the assessee incurred in relation to the assets taxable under the Wealth-tax Act. Therefore, no deduction is to be allowed for wealth-tax liability in the computation of the taxable net wealth from assessment year 1993-94 and onwards [Circular No. 663, dt. 28-9-1993: 203 ITR (St.) 134].

7. Part C of Schedule III omitted w.e.f. 1-4-1993 (assessment year 1993-94 and onwards) consequential to exclusion of shares and debentures from levy of wealth-tax, vide section 2(ea), refer item (7) on page 262.

DEFINITIONS:

(1) *"Gross maintainable rent"* means:

(*a*) where the property is not let, the amount of annual rent assessed by the local authority for the purposes of levy of property tax or any other tax. If there is no such assessment or the property is situated outside the area of any local authority, the amount which the owner can reasonably be expected to receive as annual rent had such property been let;

(*b*) where the property is let, the amount received or receivable as annual rent or the annual value assessed by the local authority for the purposes of levy of property tax or any other tax, whichever is higher.

"Annual rent" means the actual rent received or receivable[8] by the owner throughout the previous year. However, in cases where the property is partly let-out and partly vacant during the previous year, the annual rent means the amount which bears the same proportion to the amount of the actual rent received or receivable by the owner for which the property is let, as the period of 12 months bears to the number of months (including part of a month) during which the property is let.

EXAMPLE 1: Mr. A receives Rs. 9,000 as rent of a residential house for a period of 9 months. The house was vacant for 3 months. The annual rent is to be adopted at Rs. 12,000 [Rs. 9,000 × 12 (months) ÷ 9 (months)].

Further, such actual rent is to be increased by—

(i) the amount of municipal taxes, if borne by the tenant;

(ii) 1/9th of the actual rent, if expenditure on repairs is borne by the tenant;

(iii) the amount calculated @ 15% p.a. on the amount of deposit (not being advance rent for 3 months or less) outstanding from month to month, for the number of months (excluding part of a month). However, if the owner pays interest to the tenant on deposit so taken, the increase to be made to the actual rent as above should be limited to the sum by which the amount calculated aforesaid exceeds the interest.

EXAMPLE 2: Mr. A let out his property to Mr. B from 1-4-2003 for a period of 3 years @ Rs. 36,000 p.a. The annual value of the property assessed by a local authority is Rs. 30,000. Mr. A has taken on the said date a deposit of Rs. 1,20,000 to be adjusted at the end of the period. Mr. A pays interest to Mr. B @ 11% p.a. i.e., Rs. 13,200 p.a. Mr. B bears repairs expenses and also municipal taxes amounting to Rs. 8,000. Annual rent will be:

Actual rent for the year[9] (gross maintainable rent)			Rs. 36,000
Add: Municipal taxes borne by Mr. B	Rs. 8,000		
For repairs expenses borne by Mr. B: 1/9th of actual rent Rs. 36,000	Rs. 4,000		
Interest @ 15% p.a. on deposit of Rs. 1,20,000	Rs. 18,000		
Less: Interest paid to Mr. B @ 11% p.a. on Rs. 1,20,000	Rs. 13,200	Rs. 4,800	Rs. 16,800
Annual rent			Rs. 52,800

(iv) where the owner has received any amount by way of premium or otherwise as consideration for leasing or any modification of the terms of the lease, the amount obtained by dividing the premium or other amount by the number of years of the period of lease.

EXAMPLE 3: If in the *Example 2* above, if Mr. A had taken Rs. 1,20,000 as premium for leasing for a period of 20 years, instead of deposit, the annual rent will be Rs. 54,000 [Rs. 36,000 + Rs. 8,000 + Rs. 4,000 + Rs. 6,000 (Rs. 1,20,000 premium ÷ 20 years, being number of years of the lease period)].

(v) where the owner derives any benefit or perquisite, whether convertible into money or not, as consideration of leasing or any modification of the terms of the lease, the value of such benefit or perquisite should be added to the actual rent.

(2) *"Net maintainable rent"* means the amount of gross maintainable rent as reduced by—

(i) the amount of taxes levied by any local authority in respect of the property, e.g. municipal taxes; and

(ii) a sum equal to 15% of the gross maintainable rent.

EXAMPLE 4: Gross maintainable rent in the manner worked out in item (1) above is, say.			Rs. 60,000
Less: Municipal taxes levied by local authority	Rs. 10,000		
15% of Rs. 60,000 (gross maintainable rent)	Rs. 9,000	Rs. 19,000	
Net maintainable rent			Rs. 41,000

(3) *"Aggregate area"* means the aggregate area in relation to the plot of land on which the property is constructed and the unbuilt area.

8. Rent received or receivable shall include all payments for user of property, value of all benefits or perquisites, whether convertible into money or not, obtained from a tenant or occupier of the property and also any sum paid by such a tenant or occupier in respect of any obligation which would have been payable by the owner.

9. As the actual rent received (Rs. 36,000) is more than annual value (Rs. 30,000), actual rent (Rs. 36,000) is to be taken.

(4) *"Specified area"*, in relation to the plot of land on which the property is constructed, means:

(*a*) where the property is situate at Bombay, Calcutta, Delhi or Madras, sixty per cent. of the aggregate area;

(*b*) where the property is situate at Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirapalli, Trivandrum, Vadodara (Baroda) or Varanasi (Banaras), sixty-five per cent. of the aggregate area;

(*c*) where the property is situate at any other place, seventy per cent. of the aggregate area:

Provided that where under any law for the time being in force, the minimum area of the plot of land required to be kept as open space for the enjoyment of the property exceeds the specified area, such minimum area shall be deemed to be the specified area.

(5) *"Unbuilt area"*, in relation to the aggregate area of the plot of land on which the property is constructed, means that part of such aggregate area on which no building has been erected.

CAPITALISATION OF NET MAINTAINABLE RENT:

[Refer Rule 3 of the Schedule III]

The value of any immovable property, being a building or land appurtenant thereto, or part thereof, for inclusion in the net wealth is to be arrived at as under:

Where the property is constructed on:

(*a*)	Free hold land	Net maintainable rent × 12.5
(*b*)	Leasehold land and where the unexpired period of lease of such land is:	
	(*1*) 50 years or more	Net maintainable rent × 10
	(*2*) less than 50 years	Net maintainable rent × 8.

EXAMPLE 5: The net maintainable rent of a building is say, Rs. 40,000.

If the building is constructed on:		Value for inclusion in the net wealth
(1) Free hold land	net maintainable rent Rs. 40,000 × 12.5	Rs. 5,00,000
(2) Lease hold land where the unexpired period of lease of such land is:		
(a) 50 years or more	net maintainable rent Rs. 40,000 × 10	Rs. 4,00,000
(b) less than 50 years	net maintainable rent Rs. 40,000 × 8	Rs. 3,20,000

However, where such property is acquired or construction of which is completed after 31-3-1974 and value arrived at as above is lower than the cost of acquisition/construction, as increased by the cost of any improvement to the property, then the value of the property under Rule 3 for the purposes of inclusion in the net wealth shall be the cost of acquisition/construction as so increased by cost of improvement. This restriction will also apply to a self-occupied residential house subject to certain conditions mentioned in item (b) hereafter.

PREMIUM TO BE ADDED TO THE CAPITALISED VALUE IN CERTAIN CASES:

[Refer Rule 6 of the Schedule III]

Where the unbuilt area of the plot of land on which the property is constructed exceeds the specified area, the capitalised value of the property shall be increased by an amount calculated as hereunder:

Where the difference between the unbuilt area and the specified area—

exceeds 5% but does not exceed 10% of the aggregate area . .	by an amount equal to 20% of such value;
exceeds 10% but does not exceed 15% of the aggregate area . .	by an amount equal to 30% of such value;
exceeds 15% but does not exceed 20% of the aggregate area . .	by an amount equal to 40% of such value.

(b) Valuation of self-occupied residential house:

Value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of 12 months immediately preceding the valuation date, may at the option of the assessee, be taken to be the value determined in manner laid down in Part B of the Schedule III [refer item *(a)* on page 263] as on the valuation date next following the date on which he became the owner of the house or on the valuation date relevant to assessment year 1971-72, whichever is later [Section 7(2)].

Where such a house is acquired prior to assessment year 1971-72, its value, at the option of the assessee, be taken to be as prevailing on the valuation date relevant to assessment year 1971-72 or the value determined

in manner laid down in Part B of Schedule III [refer item *(a)* on page 263], whichever is beneficial to the assessee.

Where such a house is acquired or constructed subsequent to assessment year 1971-72 but on or before 31-3-1974, the value of such a house is to be determined in the manner laid down in Part B of Schedule III [refer item (a) on page 263].

Where such a house is acquired or constructed on or after 1-4-1974 and the cost of acquisition or construction (as increased by the cost of improvement, if any) exceeds the value determined under Rule 3, then, such cost (as increased by the cost of improvement, if any) will be taken as its value and not as determined under Rule 3 [2nd proviso to Rule 3].

However, one house belonging to an assessee, exclusively used by him for self-occupation, whose cost of acquisition or construction (as increased by the cost of improvement, if any) does not exceed—

(1) Rs. 50,00,000, if the house is situate at Bombay, Calcutta, Delhi or Madras.

(2) Rs. 25,00,000, if the house is situate at any other place,

the value determined under Rule 3 will be taken and not cost of acquisition or construction (as increased by the cost of improvement, if any) [3rd proviso to Rule 3].

Where the assessee owns more than one house cost of each of which exceed the value determined under Rule 3, the concession of adopting the value under 3rd proviso to Rule 3 will apply only in respect of one house at the option of the assessee, as may be specified by him [4th proviso to Rule 3].

Where the house is constructed by the assessee, the date on which the construction of the house is completed will be taken to be the date on which he became owner of the house. "House" includes a part of a house being an independent residential unit [*Explanation* to section 7(2)].

PROVISIONS OF RULE 3 OF THE SCHEDULE III NOT APPLICABLE IN CERTAIN CASES:

[Refer Rules 8 & 20 of the Schedule III]

(1) Where the Assessing Officer, with the previous approval of the Joint Commissioner, is of opinion that it is not practicable to apply the provisions of Rule 3 [Rule 8(*a*)];

(2) where the difference between the unbuilt area and the specified area exceeds 20% of the aggregate area [Rule 8(*b*)];

(3) where the property is constructed on lease-hold land and the lease expires within 15 years from the relevant valuation date and the deed of lease does not give an option to the lessee for the renewal of the lease [Rule 8(*c*)].

In the above circumstances where the provisions of rule 3 are not applicable, the value of the property is to be determined in the manner laid down in rule 20.

(c) The valuation of other assets:

The valuation of jewellery has to be made by the authorised registered valuer appointed by the Government. Where the value of jewellery does not exceed Rs. 5,00,000, then, assessee has to submit a statement in the prescribed Form 0-8A alongwith the return of net wealth. If value exceeds Rs. 5,00,000, its value will be as per the valuation made by the Valuation Officer, on a reference made to him by the Assessing Officer. For the rates of gold and silver from 15-11-1982 to 31-3-2004, refer page 276.

The valuation of jewellery will be on the basis of its 'fair market value' on the valuation date. Where the value of the jewellery exceeds Rs. 5 lakhs, a valuation report from a registered valuer in the prescribed form should be filed along with the return of net wealth[10]. If the Assessing Officer is of the opinion that the value of jewellery is less than its fair market value, he may, subject to section 16A(1), refer the valuation of such jewellery to the Valuation Officer. The value estimated by such Valuation Officer will be adopted by the Assessing Officer.

In case of uncertainty in the matter of correct valuation of any asset, it would be advisable to get the asset or assets valued by the approved valuer appointed by the Government. Though the valuation report is not by itself binding on the department, the assessee would not be subjected to any penalty for understatement of the value of any asset on the ground that its value as adopted in the assessment order is higher than that estimated by the approved valuer.

10. The Board has clarified vide Circular No. 646, dt. 15-3-93 [200 ITR (St.) 228] that "The report of the registered valuer obtained for one assessment year can also be used for subsequent four assessment years subject to the adjustments specified in Para 3 of the said circular. In such a case a copy of the said valuation report along with a chart showing the specified adjustments shall be filed along with the return of net wealth for each of the four assessment years.".

Units of Unit Trust of India, Units of Mutual Fund, Central Government securities, State Government securities, Debentures/Bonds of the companies, Preference and Equity shares of companies and Corporation Bonds are not assets within the meaning of section 2(ea) [For details, refer item (7) on page 262] and hence not chargeable to Wealth-tax. Since these assets are not chargeable to Wealth-tax, the question of valuation of such assets does not arise.

NET WEALTH OF AN ASSESSEE TO INCLUDE CERTAIN ASSETS:

(Section 4)

Section 4 deals with the inclusion of the value of certain assets in the net wealth of an assessee though under the general law such assets do not belong to the assessee. The circumstances under which these assets are to be included are discussed hereunder:

Assets transferred to the following categories of persons fall within the ambit of Section 4 (1)(a):

(1) Assets transferred to spouse (i.e., husband or wife):

[Section 4 (1)(a)(i)]

Value of assets which are transferred directly or indirectly (otherwise than for adequate consideration or in connection with an agreement to live apart) by a husband to his wife or by a wife to her husband are to be included in the hands of the transferor.

(2) Assets transferred to minor children other than a married daughter:

[Section 4(1)(a)(ii)]

Value of assets which on the valuation date are held by a minor child (not being a married daughter) of an individual are to be included in the net wealth of the parent who is having greater net wealth or where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year. Where such assets are once included in the net wealth of the either parent, such assets shall not be included in the net wealth of the other parent in any succeeding year unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do [Vide 3rd proviso to section 4(1)(a)]. However, assets acquired by the minor child out of his income [referred to in the proviso to section 64(1A) of the Income-tax Act] and held on the valuation date is not to be included in the net wealth of his parent [Vide 2nd proviso to section 4(1)(a)].

Where the assets are held by a minor child suffering from any disability of the nature specified in section 80U of the Income-tax Act (refer pp. 232-233), such assets will not be included in the net wealth of any parent as provisions of section 4(1)(a)(ii) are not applicable. Such minor child's wealth will be assessed in the hands of such child.

(3) Assets transferred to persons or association of persons:

[Section 4(1)(a)(iii)]

Value of assets transferred by the individual, directly or indirectly (otherwise than for adequate consideration), to a person or association of persons for the immediate or deferred benefit of the individual, his or her spouse, shall be included in the net wealth of the individual.

(4) Transfer of assets to an association of persons otherwise than under an irrevocable transfer:

[Section 4(1)(a)(iv)]

Value of assets transferred by the individual to a person or association of persons is to be included in the hands of the transferor, if the transfer is by way of revocable transfer.

In other words, if the transfer is by way of an "irrevocable transfer", the asset will not be deemed as belonging to the transferor.

The expression "irrevocable transfer" as defined in the *Explanation* to section 4 means a transfer of assets which, by the terms of instrument effecting it, is not revocable for a period exceeding 6 years or during the life time of the transferee, and under which the transferor derives no direct or indirect benefit.

A transfer of assets would not be considered as "irrevocable transfer" if the instrument of transfer contains any provision of the re-transfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor or in any way gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the assets or income therefrom [*Explanation* to section 4].

(5) Assets transferred by an individual to his or her son's wife:

[Section 4(1)(a)(v)]

The value of assets transferred by an individual, directly or indirectly (otherwise than for adequate consideration), to his or her son's wife on or after 1-6-1973 are to be included in the assessment of the transferor.

(6) Assets transferred by an individual to a person or association of persons for the benefit of son's wife:

[Section 4(1)(a)(vi)]

Where an individual has transferred assets on or after 1-6-1973 otherwise than for adequate consideration to a person or association of persons directly or indirectly for the immediate or deferred benefit of son's wife, of such individual, such assets will be included in the net wealth of the individual.

(7) Transfer of assets referred to in any of the sub-clauses of section 4(1)(a) which are chargeable to gift-tax or exempt from gift-tax:

[1st proviso to section 4(1)(a)]

Under the 1st proviso to section 4(1)(a), the value of the assets referred to therein and transferred after the end of the previous year relevant to the assessment year 1971-72 and subsequent years by way of gift is to be included in the net wealth of the individual even though such gift is chargeable under the Gift-tax Act, 1958 or is exempt under section 5 of that Act.

In connection with the above deemed assets it may be noted that:

It is not necessary that the transferred asset should be held by the transferee on the valuation date in the same form in which it was transferred. Thus, if an individual transfers cash to his or her spouse or minor child (includes a step-child and an adopted child) which is used before the valuation date for the purchase of house property, and/or urban land, it is the value of the asset so acquired which is to be included in the net wealth of the individual and not the cash originally transferred [Section 4(1)(a)].

(8) Interest of an assessee in a firm or an association of persons:

[Section 4(1)(b)]

The value of the interest in the assets of the firm or association, of an assessee who is a partner in a firm or a member of an association of persons determined in the manner laid down in Rules 15 and 16 of Schedule III will be included in the net wealth of the assessee.

Where a minor is admitted to the benefits of partnership, the interest of such minor in the firm determined in the manner laid down in Rules 15 and 16 of Schedule III will be included in the net wealth of the parent who is having greater net wealth or where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year. Where such interest of minor is once included in the net wealth of either parent for any assessment year, such interest in subsequent years will not be included in the net wealth of the other parent unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

(9) Conversion or transfer of separate property of an individual into Hindu undivided family property:

[Section 4(1A)]

Sub-section (1A) of section 4 provides that where an individual being a member of a Hindu undivided family converted his personal property into Hindu undivided family property after 31-12-1969, by throwing it in the common stock of the family, he is deemed to have transferred the converted property through the family, to the members of the family, for being held by them jointly. The whole of such converted property shall be deemed to belong to the individual and will be included in his net wealth.

Where an individual transfers his separate property, directly or indirectly, to the Hindu undivided family of which he is a member, for inadequate consideration, the value of such transferred property (even by way of gift) will be included in the net wealth of the individual.

In the event of partial or total partition of the Hindu undivided family, the shares attributable to the spouse of the individual in the converted property will be included in the net wealth of the individual under the provisions of section 4(1).

(10) Partial partition:

[Section 20A]

Partial partition of a Hindu undivided family taking place after 31st December, 1978 will not be recognised.

Where any such claim is made before the Assessing Officer that a partial partition of a Hindu undivided family, which has hitherto been assessed as undivided, has taken place after 31st December, 1978, such family will continue to be liable to be assessed under the Wealth-tax Act as if no such partial partition had taken place.

Further, each member or group of members of such family immediately before such partial partition and also the family itself will be jointly and severally liable for the tax, penalty, interest, or any other sum payable under this Act by the family in respect of any period, whether before or after the partial partition. The several liability of any member or group of members will, however, be computed according to the portion of the joint family property allotted to him or it at such partial partition.

For the purposes of section 20A, "partial partition" shall have the meaning assigned to it in clause (b) of the *Explanation* to section 171 of the Income-tax Act (refer page 60).

The provisions of section 20A are not applicable to a partial partition of a separate property converted into Hindu undivided family property after 31-12-1969 discussed under preceding item (9).

(11) Section 4(1)(a) not applicable to assets transferred by an individual before 1-4-1956:

[Section 4(4)]

The provisions of section 4(1)(a) are not applicable in respect of assets transferred by an individual before 1-4-1956 and the value of the assets so transferred shall not be included in his net wealth.

(12) Gift of money by mere book entries without actual delivery of money:

[Section 4(5A)]

Section 4(5A) of the Act provides that where a gift of money is made by mere book entries and it is not proved to the satisfaction of the Assessing Officer that there was actual delivery of the money at the time when the book entries were made, the value of such gift will be included in the net wealth of the donor.

(13) Tax treatment of members of co-operative housing societies/company/AOP:

[Section 4(7)]

A member of co-operative society, company or other association of persons to whom a building or part of a building (i.e., flat) has been allotted, will be deemed to be the owner of such building/flat.

(14) Deemed owner in respect of certain types of properties:

[Section 4(8)]

Section 4(8) provides that a person shall be deemed to be owner in the following two types of properties:

(a) property taken possession through part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882;

(b) property taken either on lease exceeding a year or through any transaction as is referred to in section 269UA(f) of the Income-tax Act.

EXEMPTION IN RESPECT OF CERTAIN ASSETS:

[Section 5]

Section 5 of the Wealth-tax Act, 1957 enumerates various assets which are exempt from wealth-tax.

Upto assessment year 1992-93, various types of assets [as discussed in sub-item (ii) & item (B) on page 249 of ITRR 1994-95 (56th Year of Publication)] were wholly or partially exempt under the then section 5. From assessment year 1993-94 and onwards, in view of the revised definition of the term 'asset' in section 2(ea) [for details, refer item (7) on page 262], barring the following all other exemptions have been withdrawn:

(1) Property held under trust or other legal obligation for any public purpose of a charitable or religious nature in India [Section 5(i)].

Exemption under this clause will not be allowed to the trust carrying on business unless—

(i) the business income of the trust is exempt under section 11(4A) of the Income-tax Act; or

(ii) the business is carried on by an institution, fund or trust referred to in clauses [(22) or (22A), upto assessment year 1998-99] (23B) or (23C) of section 10 of the Income-tax Act.

(2) The interest of the assessee in the coparcenary property of any Hindu undivided family of which he is a member subject to the condition that provisions of section 4(1A) of the Wealth-tax Act are not applicable [Section 5(ii)].

(3) One residential building in the occupation of ex-ruler [Section 5(iii)].

(4) Heir-loom jewellery of ex-ruler [Section 5(iv)].

(5) In respect of moneys and the value of assets brought into India, or the value of assets acquired out of such moneys[11] brought into India, by persons of Indian origin or a citizen of India, in cases where such persons return to India with the intention of permanently residing therein. This exemption will be available for seven successive assessment years commencing with the assessment year next following the date on which such person returns to India [Section 5(v)].

Moneys standing to the credit of such person in a Non-resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973 and any rules made thereunder, on the date of his return to India, shall be deemed to be moneys brought by him into India on that date [*Explanation* 2 to section 5(v)].

(6) From assessment year 1999-2000 and onwards, one house or part of a house or a plot of land not exceeding 500 sq. metres belonging to an individual or a Hindu undivided family [Section 5(vi)]. For assessment years 1994-95 to 1998-99, the exemption is restricted to one house or part of a house belonging to an individual or a Hindu undivided family [The then section 5(vi)].

Note: In my opinion, circulars referred to hereunder will also apply to section 5(vi) as the provisions contained in the then section 5(1)(iv) are the same as in the existing section 5(vi):

(1) Exemption u/s. 5(1)(iv) is available even for houses used for commercial purposes [Vide Circular letter F. No. 317/23/73-W.T., dt. 29-7-1973].

(2) Where a property is jointly held in co-ownership, each of the co-owners will be entitled to claim exemption u/s. 5(1)(iv) subject to monetary ceiling limit [Vide Board's F. No. 10/69/69-W.T., dt. 26-8-1969].

LIABILITY TO ASSESSMENTS IN SPECIAL CASES

(1) Charitable or religious trust: (Section 21A)

Notwithstanding anything contained in section 5(i), where any property is held under trust for any public purpose of a charitable or religious nature in India, tax shall be recoverable from the trustee in respect of the property held by him under trust at the flat rate of 1% on net wealth exceeding Rs. 15,00,000, if the trust forfeits exemption by reason of any of the following factors, namely —

(i) any part of the trust's property or any income of the trust, including income by way of voluntary contributions is used or applied, directly or indirectly, for the benefit of any person referred to in section 13(3) of the Income-tax Act, e.g., the settlor, the trustee, their relatives, etc.; or

(ii) any part of the income of the trust, created on or after 1st April, 1962, including income by way of voluntary contributions, enures, directly or indirectly, for the benefit of any person referred to in section 13(3) of the Income-tax Act; or

(iii) any funds of the trust are invested or deposited or any shares in a company are held by the trust, in contravention of the investment pattern for trust funds laid down in section 13(1)(d) read with section 11(5) of the Income-tax Act.

However, the provisions of section 21A will not apply in the following cases:

(1) where any part of such property or any income of such trust is used or applied for the benefit of any person referred to in section 13(3) of the Income-tax Act, in compliance with a mandatory term of the trust (created before1-4-1962), no wealth tax shall be leviable since the provisions of section 21A(i) do not apply.

(2) where the charitable and religious trust is entitled to exemption from income-tax in respect of its income under clauses (21) or (22) or (22A) or (23B) or (23C) of section 10 of the Income-tax Act.

(2) Association of persons: [Section 21AA]

Where assets chargeable to wealth-tax are held by an association of persons and the individual shares of the members of the association in the income or assets or both are indeterminate or unknown (on the date of formation of the association or at any time thereafter) the net wealth of such association will be taxed at the flat rate of 1% of net wealth exceeding Rs. 15,00,000.

The provisions of this section are not applicable to a company or a co-operative society and society registered under the Societies Registration Act, 1860.

(3) Wealth-tax in the case of companies including closely-held companies:

Under section 3(2) of the Wealth-tax Act, a company [as defined in section 2(17) of the Income-tax Act] will be charged to wealth-tax at the flat rate of 1% of net wealth exceeding Rs. 15,00,000. Wealth-tax is chargeable in respect of the assets specified in section 2(ea) as detailed in item (7) on page 262. Provisions contained in the Wealth-tax Act will apply to companies. For *Example*, refer page 257.

11. In the case of a person referred to above, the moneys and the value of assets brought by him into India and the value of the assets acquired by him out of such moneys *within one year immediately preceding the date of his return and at any time thereafter* will qualify for exemption. The exemption will, however, be limited to a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

MISCELLANEOUS:

(1) Return of wealth:

(Section 14)

Where the net wealth of an assessee, including the net wealth of any other person in respect of which he is assessable (for instance u/s. 4), exceeds the taxable limit, he has to voluntarily file the return of net wealth under section 14(1) on or before the due date prescribed under section 139(1) of the Income-tax Act. The due dates for filing the return of income under section 139(1) for various categories of assessees, are as under:

In relation to assessment year 2001-02 and subsequent years:

(a)	where the assessee is: (1) a company; or (2) a person (other than a company) whose accounts are required to be audited under Income-tax Act or any other law; or (3) a working partner of a firm whose accounts are required to be audited under Income-tax Act or any other law	By 31st October[12]
(b)	in the case of a person other than a company, referred to in the 1st proviso to section 139(1) [Refer page 185]	By 31st October
(c)	in the case of any other assessee other than (a) & (b) above	By 31st July[12].

The above dates are mandatory. The Assessing Officer does not have power to extend the due dates mentioned above. Assessing Officer will not issue notice under section 14, if the assessee has not filed a return of net wealth. But he may issue such a notice under section 16(4)(i), if the assessee has not filed a return within the time allowed as above. To illustrate, if the return of net wealth for the assessment year 2004-05 is not filed by 31-10-2004, by an assessee falling under category (a) above, Assessing Officer may issue notice u/s. 16(4)(i) to the assessee to furnish the said return, on or after 1-11-2004. The return of net wealth which shows net wealth below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished.

Where an assessee files return of net wealth after the due date mentioned above, interest at the rate of 1%[1$\frac{1}{4}$%, from 1-6-2001 to 7-9-2003; 2%, upto 31-5-2001], for every month or part of a month on the amount of tax payable on the net wealth as determined u/s. 16(1)(i) or on regular assessment, will be levied for the period of delay i.e., from due date of furnishing the return to the date of furnishing the return. If the return is not furnished at all, the interest will be levied from the due date of furnishing the return to the date of completion of assessment u/s. 16(5) [Section 17B]. No penalty, as hitherto, is leviable for delay or failure in furnishing the return.

Where a return has not been furnished within the time allowed under section 14(1) or under a notice issued under section 16(4)(i) or where it has been furnished but some omission or wrong statement is discovered therein, section 15 permits an assessee to file a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(2) Self-assessment:

(Section 15B)

Under section 15B, where any tax is payable on the basis of the return of net wealth required to be furnished under sections 14 or 15 or 16(4)(i) or 17, then, such tax shall be paid before the filing of the return and the return shall be accompanied by proof of payment of such tax (i.e., self-assessment challan). Interest, if any, payable for delayed filing of return of net wealth u/s. 17B, such interest upto the date of furnishing the return also should be paid alongwith self-assessment tax. Where the amount paid on self-assessment falls short of tax and interest payable on the basis of the return, the amount paid will be first adjusted against the interest and the balance, if any, against the tax payable.

For the failure to pay the self-assessment tax, the assessee would be deemed in default u/s. 15B(3). However, there is no provision to levy penalty for such default.

(3) Assessment procedure:

(Section 16)

The assessment procedure under the Wealth-tax Act is similar to that of Income-tax. Refer sub-items (A) to (C) of item (ii) on pp. 188-189.

W.e.f. 1-6-1999, the assessment procedure u/s. 16(1) of the Wealth-tax Act is similar to that of Income-tax Act [Refer sub-item (A) of item (ii) on page 188].

12. For extended 'due date' in relation to assessment years 2001-02 to 2004-05, refer foot note No. 34 on page 197.

For failure to pay the demand made on regular assessment within 30 days from the date of receipt of the notice of demand, the assessee will be liable to pay interest u/s. 31(2) and penalty u/s. 32. Where the period of default in paying the regular demand commences on or after 1-4-1989 and ends after that date, the interest will be payable at the rate of 1½% (upto 31-5-2001)/1¼% (from 1-6-2001 to 7-9-2003)/1% (from 8-9-2003 & onwards), for every month or part of a month.

(4) Time limit for completion of wealth-tax assessments or reassessments:

(Section 17A)

(W.e.f. 1-6-2001[13]**)**

Section 17A prescribes the time limits for completion of assessments or reassessments as under:

Type of assessment	*Time limit for completion of assessment or re-assessment*
(1) Regular assessment made u/s. 16 for assessment year 1989-90 and onwards	Two years from end of the relevant assessment year.
(2) Assessment or reassessment made u/s. 17—	
(a) where the notice is served u/s. 17(1) on or after 1-4-2000	One year from the end of the financial year in which such notice was served.
(b) where the notice u/s. 17(1) was served on or after 1-4-1999 but before 1-4-2000	At any time upto 31-3-2002.
(3) Fresh assessment is to be made in pursuance of an order u/s. 23A or 24 or 25 setting aside or cancelling an assessment—	
(a) is received by the Chief Commissioner or Commissioner/is passed by the Chief Commissioner or Commissioner, on or after 1-4-2000	One year from the end of the financial year in which the order u/s. 23A or 24 is received by the Chief Commissioner or Commissioner, or the order u/s. 25 is passed by the Commissioner.
(b) was received/passed by the Chief Commissioner or Commissioner on or after 1-4-1999 but before 1-4-2000	At any time upto 31-3-2002.

(5) Penalty for failure to furnish returns, to comply with notices and concealment of assets, etc.:

The penalty chart in respect of various defaults is given hereunder.

APPLICABLE FROM ASSESSMENT YEAR 1989-90 & ONWARDS:

Nature of default	*Penalty imposable*
Under Section 18(1)(b): Failure to comply with a notice under section 16(2) or 16(4)	Minimum penalty is Rs. 1,000 and maximum penalty is Rs. 25,000 for each such failure.
Under Section 18(1)(c): Concealing the particulars of any assets or furnishing inaccurate particulars of any assets or debts	Minimum penalty is 100% and maximum is 500% of the tax sought to be evaded (i.e., the difference between the tax on net wealth assessed and the tax on such assessed net wealth as reduced by the amount of concealed wealth).

Notes: (1) No penalty shall be imposable for default u/s. 18(1)(b) if assessee proves that there was reasonable cause for the failure referred to in that clause [Proviso to section 18(1)].

(2) No penalty is imposable for delay or failure in furnishing the return of net wealth. However, interest at the rate of 1% [1¼%, from 1-6-2001 to 7-9-2003; 2%, upto 31-5-2001] for every month or part of a month is payable u/s. 17B for delay in furnishing the return of net wealth.

(6) Waiver or reduction of penalty:

(Section 18B)

Under section 18B of the Wealth-tax Act, the Commissioner may reduce or waive the amount of penalty imposed or imposable on a person under section 18(1)(iii) for concealment of wealth, if he is satisfied that such person,—

(1) has, prior to the detection by the Assessing Officer, of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosure of such particulars; and

(2) has co-operated in any inquiry relating to the assessment and has either paid or made satisfactory arrangements for the payment of any tax or interest under the Wealth-tax Act.

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13. For the notes on time limit for completion of wealth-tax assessments or reassessments u/s. 17A applicable upto 31-5-2001, refer page 259 of ITRR 2001-02 (63rd Year of Publication).

WEALTH-TAX

FOR ASSESSMENT YEAR 2004-05

For

INDIVIDUALS, HINDU UNDIVIDED FAMILIES & COMPANIES

Valuation date: 31st March, 2004.

Flat rate of wealth-tax: 1% of the amount by which the net wealth exceeds Rs. 15,00,000.

NET WEALTH Rs.	WEALTH-TAX Rs.	NET WEALTH Rs.	WEALTH-TAX Rs.	NET WEALTH Rs.	WEALTH-TAX Rs.	NET WEALTH Rs.	WEALTH-TAX Rs.	NET WEALTH Rs.	WEALTH-TAX Rs.	NET WEALTH Rs.	WEALTH-TAX Rs.
100	1	1000	10	11000	110	21000	210	31000	310	41000	410
200	2	2000	20	12000	120	22000	220	32000	320	42000	420
300	3	3000	30	13000	130	23000	230	33000	330	43000	430
400	4	4000	40	14000	140	24000	240	34000	340	44000	440
500	5	5000	50	15000	150	25000	250	35000	350	45000	450
600	6	6000	60	16000	160	26000	260	36000	360	46000	460
700	7	7000	70	17000	170	27000	270	37000	370	47000	470
800	8	8000	80	18000	180	28000	280	38000	380	48000	480
900	9	9000	90	19000	190	29000	290	39000	390	49000	490
1000	10	10000	100	20000	200	30000	300	40000	400	50000	500
1500000	—	1660000	1600	1840000	3400	2350000	8500	3250000	17500	4150000	26500
1500100	1	1670000	1700	1850000	3500	2400000	9000	3300000	18000	4200000	27000
1501000	10	1680000	1800	1860000	3600	2450000	9500	3350000	18500	4250000	27500
1510000	100	1690000	1900	1870000	3700	2500000	10000	3400000	19000	4300000	28000
1520000	200	1700000	2000	1880000	3800	2550000	10500	3450000	19500	4350000	28500
1530000	300	1710000	2100	1890000	3900	2600000	11000	3500000	20000	4400000	29000
1540000	400	1720000	2200	1900000	4000	2650000	11500	3550000	20500	4450000	29500
1550000	500	1730000	2300	1920000	4200	2700000	12000	3600000	21000	4500000	30000
1560000	600	1740000	2400	1940000	4400	2750000	12500	3650000	21500	4550000	30500
1570000	700	1750000	2500	1960000	4600	2800000	13000	3700000	22000	4600000	31000
1580000	800	1760000	2600	1980000	4800	2850000	13500	3750000	22500	4650000	31500
1590000	900	1770000	2700	2000000	5000	2900000	14000	3800000	23000	4700000	32000
1600000	1000	1780000	2800	2050000	5500	2950000	14500	3850000	23500	4750000	32500
1610000	1100	1790000	2900	2100000	6000	3000000	15000	3900000	24000	4800000	33000
1620000	1200	1800000	3000	2150000	6500	3050000	15500	3950000	24500	4850000	33500
1630000	1300	1810000	3100	2200000	7000	3100000	16000	4000000	25000	4900000	34000
1640000	1400	1820000	3200	2250000	7500	3150000	16500	4050000	25500	4950000	34500
1650000	1500	1830000	3300	2300000	8000	3200000	17000	4100000	26000	5000000	35000

Note: Wealth-tax liability is not deductible as a debt vide Circular No. 663, dt. 28-9-1993 [For gist of this circular, refer item 3 on page 334].

WEALTH-TAX EXAMPLE

ASSESSMENT YEAR

2004-05:

VALUATION DATE: 31ST MARCH, 2004:

An individual who is a resident and citizen of India, or a Hindu undivided family resident in India, has the following assets:

	Nature of assets	*Book value/Cost* Rupees	*Whether an asset liable to wealth-tax u/s. 2(ea)*	*Value as per Schedule III* Rupees
1.	Proprietory business/professional assets inclusive of cash on hand Rs. 20,000 but excluding motor car Rs. 40,000 (book value)	10,00,000	No	†
2.	Interest as partner/member in the firm/AOP [determined as per Rule 16 of the Schedule III]§	2,00,000	No	†
3.	Fixed deposits with banks [personal]	1,00,000	No	†
4.	Bank of India Savings A/c [personal]	20,000	No	†
5.	Deposits with companies/private parties	2,00,000	No	†
6.	Debentures/bonds of companies/corporation	50,000	No	†
7.	Equity/preference shares of companies/co-operative societies [Quoted and unquoted]	8,00,000	No	†
8.	Six years National Savings Certificates VIIIth Issues (with accrued interest)	1,00,000	No	†
9.	Balances with:			
	(a) State Bank of India Public Provident Fund A/c	22,00,000	No	†
	(b) National Savings Scheme, 1987/1992 A/c	1,00,000	No	†
10.	Right or interest in:			
	(a) Life insurance policies	2,00,000	No	†
	(b) "Jeevan Dhara" & "Jeevan Akshay" policies	50,000	No	†
11.	8½% Relief Bonds, 1999 [subscribed or purchased in April, 2001]	1,50,000	No	†
12.	Units of Unit Trust of India	1,00,000	No	†
13.	Units of Mutual Funds	50,000	No	†
14.	Units of Equity Linked Savings Scheme referred to in section 80CCB and section 88 of the Income-tax Act	50,000	No	†
15.	Household goods/furniture not containing precious metals	1,00,000	No	†
16.	Central Government and State Government securities	30,000	No	†
17.	Unused plot of urban land held for industrial purposes from the date of its acquisition	10,00,000	No*	†
18.	Plot of urban land held as stock-in-trade from the date of its acquisition	5,00,000	No‡	†
	Total carried over	70,00,000		NIL

† These assets are not assets within the meaning of section 2(ea) and hence question of value as per Schedule III does not arise.

§ The firm/AOP does not have any assets which are liable to wealth-tax u/s. 2(ea).

* Unused plot of urban land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him is not an asset within the meaning of clause (b) of the *Explanation* to section 2(ea).

‡ Urban land held by the assessee as stock-in-trade for a period of 10 years from the date of its acquisition by him is not an asset within the meaning of clause (b) of the *Explanation* to section 2(ea) and hence not liable to wealth-tax.

	Nature of assets	Book value/Cost Rupees	Whether an asset liable to wealth-tax u/s. 2(ea)	Value as per Schedule III Rupees
	Total brought over	70,00,000		NIL
19.	Plot of urban land admeasuring 700 sq. metres purchased in January, 2001 neither held for industrial purposes nor held as stock-in-trade. .	5,00,000	Yes	7,00,000
20.	Self-occupied residential flat at Mumbai purchased in 1982 [Rule 3 of the Schedule III].	30,00,000	Yes	1,00,000§
21.	Motor cars [personal Rs. 60,000/business Rs. 40,000 (book value)] . .	1,00,000	Yes	2,00,000
22.	Cash at house [For personal use]	1,10,000	Yes	60,000#
23.	Diamond jewellery & Gold ornaments [Rule 18 of the Schedule III]. .	1,70,000	Yes	12,50,000
24.	Silver utensils/Silver wares	20,000	Yes	60,000
	Total	1,09,00,000		

Value as per Schedule III of the assets liable to wealth-tax u/s. 2(ea)			Rs. 23,70,000
Less: Exemption u/s. 5(vi)**			Rs. 1,00,000
			Rs. 22,70,000
Less: Debts incurred in relation to purchase of plot of urban land:			
(a) Unused for industrial purposes [Refer 17 on facing page] and held as stock-in-trade [Refer 18 on facing page], Rs. 2,00,000. Not deductible as it is incurred in relation to an asset not liable to wealth-tax [Refer section 2(m)]		Nil	
(b) Neither held for industrial purposes nor held as stock-in-trade [Refer 19 above], Rs. 1,00,000. Is deductible as it is incurred in relation to an asset liable to wealth-tax [Refer section 2(m)]	Rs. 1,00,000		Rs. 1,00,000
Net wealth			Rs. 21,70,000
Wealth-tax on Rs. 15,00,000 net wealth			Nil
Wealth-tax on balance Rs. 6,70,000 net wealth @ flat rate of 1%			Rs. ††6,700
Wealth-tax payable for the assessment year 2003-04 on net wealth Rs. 21,70,000 [Refer page 273]			Rs. 6,700

Notes: (1) From assessment year 1993-94 and onwards, wealth-tax is chargeable only on assets specified in section 2(ea). For further details, refer item (7) on page 262.

(2) From assessment year 1993-94 and onwards, deduction for debts from net wealth is allowable only in respect of those debts which are incurred in relation to the assets [as defined in section 2(ea)] included in the net wealth††.

(3) From assessment year 1993-94 and onwards, net wealth exceeding Rs. 15,00,000 is liable to wealth-tax @ flat rate of 1% of the amount by which the net wealth exceeds Rs. 15,00,000.

§ Section 7(2) provides that value of a house belonging to the assessee and exclusively used by him for residential purposes, may, at the option of the assessee, be taken to be the value determined in the manner laid down in Part B of Schedule III as on the valuation date next following the date on which he became the owner of the house or the valuation date relevant to assessment year 1971-72, whichever valuation date is later. Thus, even if the market value of the residential house/flat is Rs. 48,00,000 as on 31-3-2004, the value to be adopted is Rs. 1,00,000 (i.e., value as determined in accordance with Schedule III) and not Rs. 30,00,000 (being the purchase price of the residential house/flat) [2nd & 3rd proviso to Rule 3 of the Schedule III].

Cash in hand, in excess of Rs. 50,000 is an asset within the meaning of section 2(ea)(vi).

** One house or part of a house or a plot of land not exceeding 500 sq. metres belonging to an individual or a Hindu undivided family is exempt u/s. 5(vi) without any monetary ceiling.

†† Wealth-tax liability is not deductible as a debt u/s. 2(m) vide Circular No. 663, dt. 28-9-1993 [For gist of this circular, refer item 3 on page 334].

MARKET RATES OF GOLD AND SILVER FOR WEALTH-TAX PURPOSES†

FOR VALUATION DATE 31-3-2004

(Source: The Bombay Bullion Association Ltd./Economic Times)

	MARKET RATE AS ON			
	31-3-2004	1-4-1981‡	1-4-1974††	
Gold Standard 24 Carats . .	Rs. § 6,065*	Rs. 1,670*	Rs. 506*	for 10 Grams
Silver 999 Touch . .	Rs. § 11,770	Rs. 2,715	Rs. 1,260	for 1 Kg.

‡ For the purposes of computing "Long-term capital gains" for assessment year 1993-94 and onwards.
†† For the purposes of computing "Long-term capital gains" for assessment years 1987-88 to 1992-93.

***Valuation for Gold ornaments:**

In my opinion, while determining the market value of gold ornaments, the following factors are required to be taken into consideration, namely:

(i)	Difference in price between 24 carats of standard gold and 22 carats of gold ornaments	8.33%
(ii)	Licensed dealer's margin of profit when ornaments are sold in the market	3.00%
(iii)	Melting charges payable to Government refinery and for conversion of gold ornaments into standard gold bars	0.67%
	% to be deducted in respect of gold bangles	12.00%
	Soldering made of copper, silver, etc. in necklaces and other fancy ornaments varying between 8% & 10%	9.00%
	% to be deducted in respect of gold ornaments other than gold bangles . .	21.00%

For the reasons stated above it is suggested to adopt the following formula:

Gold bangles	deduct 12%
Other ornaments made of gold	deduct 21%

†From assessment year 1993-94 and onwards, Units of Unit Trust of India, Units of Mutual Fund, Central Government securities, State Government securities, Debentures/Bonds of the companies, Preference and Equity Shares of companies and Corporation Bonds are not assets within the meaning of section 2(ea) [For details, refer item (7) on page 262] and hence not chargeable to Wealth-tax. Since these assets are not chargeable to Wealth-tax, market quotation in respect of the said assets for valuation date as on 31-3-2004 is not given.

MARKET RATES OF GOLD & SILVER

(FROM 15-11-1982 TO 31-3-2004) SOURCE: The Bombay Bullion Association Ltd.

Valuation Date	STANDARD GOLD 24 Carats Rate for 10 grams Rs.	SILVER 9960 touch Rate for 1 kg. Rs.	Valuation Date	STANDARD GOLD 24 Carats Rate for 10 grams Rs.	SILVER 9960 touch Rate for 1 kg. Rs.	Valuation Date	STANDARD GOLD 24 Carats Rate for 10 grams Rs.	SILVER 999 touch Rate for 1 kg. Rs.
15-11-82	1775	2715	2-11-86	2375	4397	31-3-95	4680	6335
31-12-82	1750	2915	31-12-86	2405	4271	31-3-96	5160	7346
31-3-83	1800	3105	31-3-87	2570	4794	31-3-97	4725	7345
4-11-83	1885	3505	22-10-87	3205	5403‡‡	31-3-98	4045	8560
31-12-83	1875	3480	31-12-87	3510	6275‡‡	31-3-99	4235	7615
31-3-84	1975	3570	31-3-88	3130	6066‡‡	31-3-2000	4380	7900
24-10-84	1990	3545	31-3-89	3140	6755‡‡	31-3-01	4,190	7,215
31-12-84	1970	3655	31-3-90	3200	6463‡‡	31-3-02	**5,010	**7,875
31-3-85	2130	3955	31-3-91	3466	6646‡‡	31-3-03	§§5,310	§§7,695
12-11-85	2149	3894	31-3-92	4334	8040‡‡	31-3-04	§6,065	§11,770
31-12-85	2110	3972	31-3-93	4140	5489‡‡			
31-3-86	2140	4015	31-3-94	4598	7142‡‡			

‡‡ Rate for 999 touch.
** Quotations are as reported in the Financial Express, Mumbai Edition, dt. 1-4-2002.
§§ Quotations are as reported in the Economic Times, Mumbai Edition, dt. 1-4-2003.
§ Quotations are as reported in the Economic Times, Mumbai Edition, dt. 1-4-2004.

LIST OF ISSUE OF BONUS SHARES

FROM 1-4-2003 TO 31-3-2004*
SOURCE : BOMBAY STOCK EXCHANGE QUOTATION

Name of the Company	Proportion in which Issued	Date of closure of Register of members	Name of the Company	Proportion in which Issued	Date of closure of Register of members	Name of the Company	Proportion in which Issued	Date of closure of Register of members
Alembic . .	2:1	27-03-2004	i-Flex Solutions . .	1:1	08-09-2003	Orissa Sponge Iron . .	1:10	18-06-2003
Asian Paints . .	1:2	25-08-2003	Indian Oil Corp . .	1:2	18-08-2003	Procter & Gamble . .	1:2	11-12-2003
Balkrishna Ind. . .	1:1	12-01-2004	Jayant Agro Organics†† . .	1:1	04-04-2003	Rane Brake Linings . .	1:1	09-01-2004
Berger Paints India . .	1:2	25-03-2004	Jindal Drilling . .	1:1	02-01-2004	Rei Agro . .	1:1	29-12-2003
Bilcare . .	2:1	15-12-2003	Jubilant Orgnosys . .	3:5	15-03-2004	Sound Craft Ind. . .	2:1	24-02-2004
Emami . .	1:1	30-03-2004	Kabra Extrusion Tech. . .	1:1	20-01-2004	Sterlite Industries . .	1:1	09-02-2004
GG Automotive Gears . .	2:3	17-10-2003	LG Balakrishnan . .	1:1	17-12-2003	Thermax‡ . .	2:1	09-09-2003
Grauer & Weil . .	1:2	05-09-2003	Mirc Electronics . .	1:1	16-08-2003	Unichem Laboratories . .	1:1	24-03-2004
Gujarat NRE Coke . .	1:2	30-05-2003	Moser Baer . .	1:1	28-11-2003	Vishnu Sugar Mills . .	3:1	23-10-2003
Haria Exports . .	2:5	11-03-2004	Mphasis BFL . .	1:1	03-07-2003	Vyapar Holdings . .	4:1	22-09-2003
Hikal . .	1:2	01-10-2003	National Flask Ind. . .	1:1	01-11-2003	Wendt . .	1:1	05-09-2003
Hindustan Lever† . .	1:1	23-06-2003	Opto Circuits . .	2:10	11-11-2003	Xpro India . .	3:10	27-02-2004

* For List of Bonus Shares from 1-4-1981 to 31-3-2000, refer pp. 257-265 of ITRR 2000-01 (62nd Year of Publication), from 1-4-2000 to 31-3-2001, refer page 264 of ITRR 2001-02 (63rd Year of Publication), from 1-4-2001 to 31-3-2002, refer page 273 of ITRR 2002-03 (64th Year of Publication), and from 1-4-2002 to 31-3-2003, refer page 272 of ITRR 2003-04 (65th Year of Publication).

† Bonus issue of 1 (one) bonus debenture of Rs. 6 each for every 1 (one) existing equity share held.

†† Bonus issue of 1 (one) bonus 7% Cumulative Preference Shares of Rs. 5 each for every 1 (one) equity share held.

‡ Bonus issue of 2 (two) bonus 6% Redeemable Preference Shares of Rs. 10 each for every 1 (one) equity share held.

GIFT-TAX

RATES OF GIFT-TAX

ASSESSMENT YEARS 1994-95 to 1999-2000

1. Gift-tax is chargeable on taxable gift **made on or before 30-9-1998**, as stated in 2 below.
2. To arrive at taxable gifts,—
   (a) First deduct basic exemption of Rs. 30,000 from the gifted amounts [Section 5(2)],
   (b) the balance so arrived at is the taxable gifts.
3. Irrespective of the amount of taxable gifts as worked out in 2*(b)*, gift-tax is chargeable on taxable gifts under section 3(2), **at the flat rate of 30%**.

It may be noted that provisions of the Gift-tax Act shall cease to apply in respect of any gift made on or after 1-10-1998 [Section 3(3)]. In relation to assessment year 1999-2000, gifts made on or after 1-4-1998 but before 1-10-1998 will be chargeable to gift-tax u/s. 3(2). Gifts received by donee is not to be treated as income in the hands of donee.

NOTES: (1) From assessment year 1993-94 and onwards, gifts made by an individual to his/her son's minor child/children, is to be included in the net wealth of his/her parents [vide section 4(1)(a)(ii) of the Wealth-tax Act, 1957] and any income arising to son's child/children out of the gifted amount is also to be included in the income of his/her parents and not in the hands of the donor [vide section 64(1A) of the Income-tax Act, 1961]. However, from assessment year 1995-96 and onwards, provisions of section 4(1)(a)(ii) of the Wealth-tax Act, 1957 and section 64(1A) of the Income-tax Act, 1961, are not applicable to a minor child of the individual if the said child is suffering from any disability of the nature specified in section 80U of the Income-tax Act. For examples, refer page 272 of ITRR 2002-03 (64th Year of Publication). For exemption u/s. 5 of the Gift-tax Act, 1958, examples for rebate on advance payment of gift-tax u/s. 18 & deduction of stamp duty from gift-tax u/s. 18A, refer pp. 281-283 of ITRR 1999-2000 (61st Year of Publication).

(2) Gifts, exceeding Rs. 25,000, made on or after 1-9-2004, is to be included as income in the hands of donee under new sub-clause (xiii) inserted in section 2(24) read with new section 56(v) by the Finance (No. 2) Act, 2004. For details, refer para 1.1 on page 41.

SALARY INCOME

EXAMPLE

For computing taxable income under the head "Salaries" during the financial year ending on 31-3-2005
ASSESSMENT YEAR 2005-06

The estimated annual salary of Mr. A an employee:

(1)	Salary Rs. 10,000 × 12 (other sources of income of Mr. A is Rs. 6,800)		Rs. 1,20,000
(2)	Perquisite in respect of rent-free furnished accommodation determined in accordance with Rule 3(l) (For the manner and method of computation of this perquisite, refer pp. 80-81)		Rs. 24,600
	Base for deduction under section 16		Rs. 1,44,600
Less:	**(1) Standard deduction under section 16(i)(A)†:**		
	@ 40% of salary of Rs. 1,44,600	Rs. 57,840	
	Maximum deduction restricted to	Rs. 30,000	
	(2) Deduction under section 16(iii) for profession tax:		
	Profession tax deducted, say @ Rs. 50 p.m. × 12 months	Rs. 600	Rs. 30,600
	Estimated annual salary from which tax is to be deducted at source		Rs. 1,14,000
	Income-tax chargeable on estimated annual salary of Rs. 1,14,000 (Refer page 301)		Rs. 11,800
	Less: Rebate of (deduction from) income-tax u/s. 88*:		
	(a) Life insurance premia paid/Tuition fees for full-time education of a Child	Rs. 3,250	
	(b) Contributions to Provident fund	Rs. 5,750	
	Total	Rs. 9,000	
	Deduction @ 20%* of Rs. 9,000 from the amount of income-tax		Rs. *1,800
	Income-tax on estimated annual salary of Rs. 1,14,000		Rs. 10,000
	Add: Additional surcharge (i.e., Education Cess) @ 2% of I.T. Rs. 10,000 vide section 2(11) of the Finance (No. 2) Act, 2004		Rs. 200
	Income-tax and addl. S.C. (i.e., Education Cess) on estimated salary Rs. 1,14,000		Rs. 10,200
	Deduction of I.T. & addl. S.C. (i.e., Education Cess) every month would be (Rs. 10,200 ÷ 12)		Rs. 850

In addition to salary, the employee has the following sources of income:

1.	Estimated annual salary as computed above	Rs. 1,14,000
2.	Interest on deposits with banks	Rs. 6,000
3.	Interest on securities (debentures)	Rs. 800
	Gross total income	Rs. 1,20,800
	Less: Deduction under section 80L: Interest on deposits with banks	Rs. 6,000
	Total (taxable) income	Rs. 1,14,800

Computation of income-tax:

	Income-tax chargeable on Rs. 1,14,800 (Refer pp. 300-301)	Rs. 11,960
	Less: Rebate of (deduction from) income-tax u/s. 88* as computed above	Rs. 1,800
	Income-tax payable on total (taxable) income Rs. 1,14,800	Rs. 10,160
	Add: Additional surcharge (i.e., Education Cess) @ 2% of I.T. Rs. 10,160 vide section 2(11) of the Finance (No. 2) Act, 2004	Rs. 203
	Income-tax and addl. S.C. (i.e., Education Cess) payable on total (taxable) income Rs. 1,14,800	Rs. 10,363
	Less: I.T. and addl. S.C. deducted by employer on salary income Rs. 1,14,000	Rs. 10,200
	I.T. & addl. S.C. payable on self-assessment, if no advance tax** has been paid	Rs. 163

† In the case of an employee whose income from salary, before allowing deduction u/s. 16(i) —
(a) does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(A) is 40% of salary subject to a maximum of Rs. 30,000; and
(b) exceeds Rs. 5,00,000, standard deduction u/s. 16(i)(B) is Rs. 20,000.

Standard deduction is also allowable to an employee who is entitled to conveyance facilities (i.e., motor car or conveyance) from employer. Further, use of any vehicle provided to employee for journey by the employer, from his residence to his office or other place of work, or from such office or place to his residence, will not be treated as any benefit or amenity granted or provided free of cost or at concessional rate as perquisite in the hands of the employee [Vide *Explanation* to section 17(2)].

*** As Mr. A's income under the head "Salaries" exceed Rs. 1,00,000 before allowing deduction u/s. 16, a deduction @ 20% of the aggregate sums invested or deposited in specified savings referred to in section 88 viz. life insurance premia, NSC VIII Issue, provident fund, tuition fees for full-time education of children, etc. (Refer pp. 237-242), will be allowed only from the income-tax chargeable on taxable income as explained above.**

** The employee is required to pay "advance tax" in three instalments in the manner explained on pp. 285-292, if the advance tax as computed under section 209 is Rs. 5,000 or more [Refer section 208].

For the notes on provisions of section 192(2B), refer page 95.

For the notes on provisions of section 192(1A), refer item 3 on page 88.

Notes: (1) If the employee is a woman below 65 years as on 31-3-2005, then she is eligible for additional rebate of (deduction from) income-tax @ 100% of the income-tax payable subject to limit of Rs. 5,000.

(2) If the resident employee's total (taxable) income does not exceed Rs. 1,00,000, then such an employee is entitled to a deduction of the entire amount of income-tax payable on such income and hence income-tax payable will be Rs. Nil [Vide section 88D(a)]. As income-tax payable is Rs. Nil, addl. S.C. (i.e., Education Cess) @ 2% of I.T. also will be Rs. Nil.

Where the total (taxable) income is between Rs. 1,00,010 & Rs. 1,11,240, then such an employee is entitled to a rebate u/s. 88D(b) as computed in Table B1 on page 298 and I.T. & Addl. S.C. payable is as per the said Table.

FOR MONTHLY SALARY INCOME BETWEEN Rs. 4,161 & Rs. 4,480

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given below the table.

MONTHLY SALARY BETWEEN Rs. 4,161 & Rs. 4,320								MONTHLY SALARY BETWEEN Rs. 4,321 & Rs. 4,480							
Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.
4161	—	**4201**	3.43	**4241**	7.43	**4281**	11.43	**4321**	15.43	**4361**	19.43	**4401**	23.43	**4441**	27.43
62	—	**02**	3.53	**42**	7.53	**82**	11.53	**22**	15.53	**62**	19.53	**02**	23.53	**42**	27.53
63	—	**03**	3.63	**43**	7.63	**83**	11.63	**23**	15.63	**63**	19.63	**03**	23.63	**43**	27.63
64	—	**04**	3.73	**44**	7.73	**84**	11.73	**24**	15.73	**64**	19.73	**04**	23.73	**44**	27.73
65	—	**05**	3.83	**45**	7.83	**85**	11.83	**25**	15.83	**65**	19.83	**05**	23.83	**45**	27.83
66	—	**06**	3.93	**46**	7.93	**86**	11.93	**26**	15.93	**66**	19.93	**06**	23.93	**46**	27.93
67	0.03	**07**	4.03	**47**	8.03	**87**	12.03	**27**	16.03	**67**	20.03	**07**	24.03	**47**	28.03
68	0.13	**08**	4.13	**48**	8.13	**88**	12.13	**28**	16.13	**68**	20.13	**08**	24.13	**48**	28.13
69	0.23	**09**	4.23	**49**	8.23	**89**	12.23	**29**	16.23	**69**	20.23	**09**	24.23	**49**	28.23
4170	0.33	**4210**	4.33	**4250**	8.33	**4290**	12.33	**4330**	16.33	**4370**	20.33	**4410**	24.33	**4450**	28.33
4171	0.43	**4211**	4.43	**4251**	8.43	**4291**	12.43	**4331**	16.43	**4371**	20.43	**4411**	24.43	**4451**	28.43
72	0.53	**12**	4.53	**52**	8.53	**92**	12.53	**32**	16.53	**72**	20.53	**12**	24.53	**52**	28.53
73	0.63	**13**	4.63	**53**	8.63	**93**	12.63	**33**	16.63	**73**	20.63	**13**	24.63	**53**	28.63
74	0.73	**14**	4.73	**54**	8.73	**94**	12.73	**34**	16.73	**74**	20.73	**14**	24.73	**54**	28.73
75	0.83	**15**	4.83	**55**	8.83	**95**	12.83	**35**	16.83	**75**	20.83	**15**	24.83	**55**	28.83
76	0.93	**16**	4.93	**56**	8.93	**96**	12.93	**36**	16.93	**76**	20.93	**16**	24.93	**56**	28.93
77	1.03	**17**	5.03	**57**	9.03	**97**	13.03	**37**	17.03	**77**	21.03	**17**	25.03	**57**	29.03
78	1.13	**18**	5.13	**58**	9.13	**98**	13.13	**38**	17.13	**78**	21.13	**18**	25.13	**58**	29.13
79	1.23	**19**	5.23	**59**	9.23	**99**	13.23	**39**	17.23	**79**	21.23	**19**	25.23	**59**	29.23
4180	1.33	**4220**	5.33	**4260**	9.33	**4300**	13.33	**4340**	17.33	**4380**	21.33	**4420**	25.33	**4460**	29.33
4181	1.43	**4221**	5.43	**4261**	9.43	**4301**	13.43	**4341**	17.43	**4381**	21.43	**4421**	25.43	**4461**	29.43
82	1.53	**22**	5.53	**62**	9.53	**02**	13.53	**42**	17.53	**82**	21.53	**22**	25.53	**62**	29.53
83	1.63	**23**	5.63	**63**	9.63	**03**	13.63	**43**	17.63	**83**	21.63	**23**	25.63	**63**	29.63
84	1.73	**24**	5.73	**64**	9.73	**04**	13.73	**44**	17.73	**84**	21.73	**24**	25.73	**64**	29.73
85	1.83	**25**	5.83	**65**	9.83	**05**	13.83	**45**	17.83	**85**	21.83	**25**	25.83	**65**	29.83
86	1.93	**26**	5.93	**66**	9.93	**06**	13.93	**46**	17.93	**86**	21.93	**26**	25.93	**66**	29.93
87	2.03	**27**	6.03	**67**	10.03	**07**	14.03	**47**	18.03	**87**	22.03	**27**	26.03	**67**	30.03
88	2.13	**28**	6.13	**68**	10.13	**08**	14.13	**48**	18.13	**88**	22.13	**28**	26.13	**68**	30.13
89	2.23	**29**	6.23	**69**	10.23	**09**	14.23	**49**	18.23	**89**	22.23	**29**	26.23	**69**	30.23
4190	2.33	**4230**	6.33	**4270**	10.33	**4310**	14.33	**4350**	18.33	**4390**	22.33	**4430**	26.33	**4470**	30.33
4191	2.43	**4231**	6.43	**4271**	10.43	**4311**	14.43	**4351**	18.43	**4391**	22.43	**4431**	26.43	**4471**	30.43
92	2.53	**32**	6.53	**72**	10.53	**12**	14.53	**52**	18.53	**92**	22.53	**32**	26.53	**72**	30.53
93	2.63	**33**	6.63	**73**	10.63	**13**	14.63	**53**	18.63	**93**	22.63	**33**	26.63	**73**	30.63
94	2.73	**34**	6.73	**74**	10.73	**14**	14.73	**54**	18.73	**94**	22.73	**34**	26.73	**74**	30.73
95	2.83	**35**	6.83	**75**	10.83	**15**	14.83	**55**	18.83	**95**	22.83	**35**	26.83	**75**	30.83
96	2.93	**36**	6.93	**76**	10.93	**16**	14.93	**56**	18.93	**96**	22.93	**36**	26.93	**76**	30.93
97	3.03	**37**	7.03	**77**	11.03	**17**	15.03	**57**	19.03	**97**	23.03	**37**	27.03	**77**	31.03
98	3.13	**38**	7.13	**78**	11.13	**18**	15.13	**58**	19.13	**98**	23.13	**38**	27.13	**78**	31.13
99	3.23	**39**	7.23	**79**	11.23	**19**	15.23	**59**	19.23	**99**	23.23	**39**	27.23	**79**	31.23
4200	3.33	**4240**	7.33	**4280**	11.33	**4320**	15.33	**4360**	19.33	**4400**	23.33	**4440**	27.33	**4480**	31.33

***** 'Monthly taxable salary' is arrived at after taking into consideration the deductions permissible u/s. 16(i) [Refer note (2) below], u/s. 16(iii) for profession tax paid/deducted and Chapter VI-A [viz. section 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80GG] of the Income-tax Act. Income-tax is to be arrived at with reference to the table given above on the 'Monthly taxable salary'.

† From the income-tax so arrived at above, the rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B, 88C & 88D(a) to arrive at the income-tax to be deducted per month on the 'Monthly taxable salary'. For the rebates of (deductions from) income-tax allowable u/s. 88, 88B, 88C & 88D(a), refer pp. 237-242. Also refer para 9.2 on page 339. **Additional S.C. (i.e., Educational Cess) is not computed in this table. Addl. S.C. is payable where the monthly taxable salary/annual taxable salary, of a resident employee, exceeds Rs. 8,333/Rs. 1,00,000 [Refer Note No. 2 on page 278].**

Notes: (1) For perquisites, benefits and other allowances, please refer example on page 278.

(2) In the case of an employee whose income from salary, before allowing deduction u/s. 16 (i) –

(a) does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(A) is 40% of salary subject to a maximum of Rs. 30,000; and

(b) exceeds Rs. 5,00,000, standard deduction u/s. 16(i)(B) is Rs. 20,000.

(3) For rebate of (deduction from) income-tax allowable u/s. 88, in respect of life insurance premia, contribution to Provident Fund, subscription to notified units of Mutual Fund, purchase of National Savings Certificates VIII Issue, tuition fees for full-time education of children etc. etc., refer pp. 237-242.

(4) For rebate of (deduction from) income-tax allowable u/s. 88B to an employee who has attained the age of 65 years at any time during the financial year ending on 31-3-2005, refer page 238.

(5) For rebate of (deduction from) income-tax allowable u/s. 88C to a woman employee who is below the age of 65 years at any time during the financial year ending on 31-3-2005, refer page 238.

(6) For rebate of (deduction from) income-tax allowable u/s. 88D(a), refer para 9.2 on page 339.

For tax on estimated annual salary income, please refer page 299.

SALARIES
TABLE

FOR MONTHLY SALARY INCOME BETWEEN Rs. 4,481 & Rs. 4,800

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given below the table.

MONTHLY SALARY BETWEEN Rs. 4,481 & Rs. 4,640								MONTHLY SALARY BETWEEN Rs. 4,641 & Rs. 4,800							
Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.
4481	31.43	**4521**	35.43	**4561**	39.43	**4601**	43.43	**4641**	47.43	**4681**	51.43	**4721**	55.43	**4761**	59.43
82	31.53	**22**	35.53	**62**	39.53	**02**	43.53	**42**	47.53	**82**	51.53	**22**	55.53	**62**	59.53
83	31.63	**23**	35.63	**63**	39.63	**03**	43.63	**43**	47.63	**83**	51.63	**23**	55.63	**63**	59.63
84	31.73	**24**	35.73	**64**	39.73	**04**	43.73	**44**	47.73	**84**	51.73	**24**	55.73	**64**	59.73
85	31.83	**25**	35.83	**65**	39.83	**05**	43.83	**45**	47.83	**85**	51.83	**25**	55.83	**65**	59.83
86	31.93	**26**	35.93	**66**	39.93	**06**	43.93	**46**	47.93	**86**	51.93	**26**	55.93	**66**	59.93
87	32.03	**27**	36.03	**67**	40.03	**07**	44.03	**47**	48.03	**87**	52.03	**27**	56.03	**67**	60.03
88	32.13	**28**	36.13	**68**	40.13	**08**	44.13	**48**	48.13	**88**	52.13	**28**	56.13	**68**	60.13
89	32.23	**29**	36.23	**69**	40.23	**09**	44.23	**49**	48.23	**89**	52.23	**29**	56.23	**69**	60.23
4490	32.33	**4530**	36.33	**4570**	40.33	**4610**	44.33	**4650**	48.33	**4690**	52.33	**4730**	56.33	**4770**	60.33
4491	32.43	**4531**	36.43	**4571**	40.43	**4611**	44.43	**4651**	48.43	**4691**	52.43	**4731**	56.43	**4771**	60.43
92	32.53	**32**	36.53	**72**	40.53	**12**	44.53	**52**	48.53	**92**	52.53	**32**	56.53	**72**	60.53
93	32.63	**33**	36.63	**73**	40.63	**13**	44.63	**53**	48.63	**93**	52.63	**33**	56.63	**73**	60.63
94	32.73	**34**	36.73	**74**	40.73	**14**	44.73	**54**	48.73	**94**	52.73	**34**	56.73	**74**	60.73
95	32.83	**35**	36.83	**75**	40.83	**15**	44.83	**55**	48.83	**95**	52.83	**35**	56.83	**75**	60.83
96	32.93	**36**	36.93	**76**	40.93	**16**	44.93	**56**	48.93	**96**	52.93	**36**	56.93	**76**	60.93
97	33.03	**37**	37.03	**77**	41.03	**17**	45.03	**57**	49.03	**97**	53.03	**37**	57.03	**77**	61.03
98	33.13	**38**	37.13	**78**	41.13	**18**	45.13	**58**	49.13	**98**	53.13	**38**	57.13	**78**	61.13
99	33.23	**39**	37.23	**79**	41.23	**19**	45.23	**59**	49.23	**99**	53.23	**39**	57.23	**79**	61.23
4500	33.33	**4540**	37.33	**4580**	41.33	**4620**	45.33	**4660**	49.33	**4700**	53.33	**4740**	57.33	**4780**	61.33
4501	33.43	**4541**	37.43	**4581**	41.43	**4621**	45.43	**4661**	49.43	**4701**	53.43	**4741**	57.43	**4781**	61.43
02	33.53	**42**	37.53	**82**	41.53	**22**	45.53	**62**	49.53	**02**	53.53	**42**	57.53	**82**	61.53
03	33.63	**43**	37.63	**83**	41.63	**23**	45.63	**63**	49.63	**03**	53.63	**43**	57.63	**83**	61.63
04	33.73	**44**	37.73	**84**	41.73	**24**	45.73	**64**	49.73	**04**	53.73	**44**	57.73	**84**	61.73
05	33.83	**45**	37.83	**85**	41.83	**25**	45.83	**65**	49.83	**05**	53.83	**45**	57.83	**85**	61.83
06	33.93	**46**	37.93	**86**	41.93	**26**	45.93	**66**	49.93	**06**	53.93	**46**	57.93	**86**	61.93
07	34.03	**47**	38.03	**87**	42.03	**27**	46.03	**67**	50.03	**07**	54.03	**47**	58.03	**87**	62.03
08	34.13	**48**	38.13	**88**	42.13	**28**	46.13	**68**	50.13	**08**	54.13	**48**	58.13	**88**	62.13
09	34.23	**49**	38.23	**89**	42.23	**29**	46.23	**69**	50.23	**09**	54.23	**49**	58.23	**89**	62.23
4510	34.33	**4550**	38.33	**4590**	42.33	**4630**	46.33	**4670**	50.33	**4710**	54.33	**4750**	58.33	**4790**	62.33
4511	34.43	**4551**	38.43	**4591**	42.43	**4631**	46.43	**4671**	50.43	**4711**	54.43	**4751**	58.43	**4791**	62.43
12	34.53	**52**	38.53	**92**	42.53	**32**	46.53	**72**	50.53	**12**	54.53	**52**	58.53	**92**	62.53
13	34.63	**53**	38.63	**93**	42.63	**33**	46.63	**73**	50.63	**13**	54.63	**53**	58.63	**93**	62.63
14	34.73	**54**	38.73	**94**	42.73	**34**	46.73	**74**	50.73	**14**	54.73	**54**	58.73	**94**	62.73
15	34.83	**55**	38.83	**95**	42.83	**35**	46.83	**75**	50.83	**15**	54.83	**55**	58.83	**95**	62.83
16	34.93	**56**	38.93	**96**	42.93	**36**	46.93	**76**	50.93	**16**	54.93	**56**	58.93	**96**	62.93
17	35.03	**57**	39.03	**97**	43.03	**37**	47.03	**77**	51.03	**17**	55.03	**57**	59.03	**97**	63.03
18	35.13	**58**	39.13	**98**	43.13	**38**	47.13	**78**	51.13	**18**	55.13	**58**	59.13	**98**	63.13
19	35.23	**59**	39.23	**99**	43.23	**39**	47.23	**79**	51.23	**19**	55.23	**59**	59.23	**99**	63.23
4520	35.33	**4560**	39.33	**4600**	43.33	**4640**	47.33	**4680**	51.33	**4720**	55.33	**4760**	59.33	**4800**	63.33

***** 'Monthly taxable salary' is arrived at after taking into consideration the deductions permissible u/s. 16(i) [Refer note (2) below], u/s. 16(iii) for profession tax paid/deducted and Chapter VI-A [viz. section 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80GG] of the Income-tax Act. Income-tax is to be arrived at with reference to the table given above on the 'Monthly taxable salary'.

† From the income-tax so arrived at above, the rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B, 88C & 88D(a) to arrive at the income-tax to be deducted per month on the 'Monthly taxable salary'. For the rebates of (deductions from) income-tax allowable u/s. 88, 88B, 88C & 88D(a), refer pp. 237-242. Also refer para 9.2 on page 339. **Additional S.C. (i.e., Educational Cess) is not computed in this table. Addl. S.C. is payable where the monthly taxable salary/annual taxable salary, of a resident employee, exceeds Rs. 8,333/Rs. 1,00,000 [Refer Note No. 2 on page 278].**

Notes: (1) For perquisites, benefits and other allowances, please refer example on page 278.

(2) In the case of an employee whose income from salary, before allowing deduction u/s. 16 (i) –
(a) does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(A) is 40% of salary subject to a maximum of Rs. 30,000; and
(b) exceeds Rs. 5,00,000, standard deduction u/s. 16(i)(B) is Rs. 20,000.

(3) For rebate of (deduction from) income-tax allowable u/s. 88, in respect of life insurance premia, contribution to Provident Fund, subscription to notified units of Mutual Fund, purchase of National Savings Certificates VIII Issue, tuition fees for full-time education of children etc. etc., refer pp. 237-242.

(4) For rebate of (deduction from) income-tax allowable u/s. 88B to an employee who has attained the age of 65 years at any time during the financial year ending on 31-3-2005, refer page 238.

(5) For rebate of (deduction from) income-tax allowable u/s. 88C to a woman employee who is below the age of 65 years at any time during the financial year ending on 31-3-2005, refer page 238.

(6) For rebate of (deduction from) income-tax allowable u/s. 88D(a), refer para 9.2 on page 339.

For tax on estimated annual salary income, please refer page 299.

FOR MONTHLY SALARY INCOME BETWEEN Rs. 4,801 & Rs. 5,200

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given on page 280.

MONTHLY SALARY BETWEEN Rs. 4,801 & Rs. 5,000								MONTHLY SALARY BETWEEN Rs. 5,001 & Rs. 5,200							
Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.
4801	63.43	**4851**	68.43	**4901**	73.43	**4951**	78.43	**5001**	83.53	**5051**	93.53	**5101**	103.53	**5151**	113.53
02	63.53	**52**	68.53	**02**	73.53	**52**	78.53	**02**	83.73	**52**	93.73	**02**	103.73	**52**	113.73
03	63.63	**53**	68.63	**03**	73.63	**53**	78.63	**03**	83.93	**53**	93.93	**03**	103.93	**53**	113.93
04	63.73	**54**	68.73	**04**	73.73	**54**	78.73	**04**	84.13	**54**	94.13	**04**	104.13	**54**	114.13
05	63.83	**55**	68.83	**05**	73.83	**55**	78.83	**05**	84.33	**55**	94.33	**05**	104.33	**55**	114.33
06	63.93	**56**	68.93	**06**	73.93	**56**	78.93	**06**	84.53	**56**	94.53	**06**	104.53	**56**	114.53
07	64.03	**57**	69.03	**07**	74.03	**57**	79.03	**07**	84.73	**57**	94.73	**07**	104.73	**57**	114.73
08	64.13	**58**	69.13	**08**	74.13	**58**	79.13	**08**	84.93	**58**	94.93	**08**	104.93	**58**	114.93
09	64.23	**59**	69.23	**09**	74.23	**59**	79.23	**09**	85.13	**59**	95.13	**09**	105.13	**59**	115.13
4810	64.33	**4860**	69.33	**4910**	74.33	**4960**	79.33	**5010**	85.33	**5060**	95.33	**5110**	105.33	**5160**	115.33
4811	64.43	**4861**	69.43	**4911**	74.43	**4961**	79.43	**5011**	85.53	**5061**	95.53	**5111**	105.53	**5161**	115.53
12	64.53	**62**	69.53	**12**	74.53	**62**	79.53	**12**	85.73	**62**	95.73	**12**	105.73	**62**	115.73
13	64.63	**63**	69.63	**13**	74.63	**63**	79.63	**13**	85.93	**63**	95.93	**13**	105.93	**63**	115.93
14	64.73	**64**	69.73	**14**	74.73	**64**	79.73	**14**	86.13	**64**	96.13	**14**	106.13	**64**	116.13
15	64.83	**65**	69.83	**15**	74.83	**65**	79.83	**15**	86.33	**65**	96.33	**15**	106.33	**65**	116.33
16	64.93	**66**	69.93	**16**	74.93	**66**	79.93	**16**	86.53	**66**	96.53	**16**	106.53	**66**	116.53
17	65.03	**67**	70.03	**17**	75.03	**67**	80.03	**17**	86.73	**67**	96.73	**17**	106.73	**67**	116.73
18	65.13	**68**	70.13	**18**	75.13	**68**	80.13	**18**	86.93	**68**	96.93	**18**	106.93	**68**	116.93
19	65.23	**69**	70.23	**19**	75.23	**69**	80.23	**19**	87.13	**69**	97.13	**19**	107.13	**69**	117.13
4820	65.33	**4870**	70.33	**4920**	75.33	**4970**	80.33	**5020**	87.33	**5070**	97.33	**5120**	107.33	**5170**	117.33
4821	65.43	**4871**	70.43	**4921**	75.43	**4971**	80.43	**5021**	87.53	**5071**	97.53	**5121**	107.53	**5171**	117.53
22	65.53	**72**	70.53	**22**	75.53	**72**	80.53	**22**	87.73	**72**	97.73	**22**	107.73	**72**	117.73
23	65.63	**73**	70.63	**23**	75.63	**73**	80.63	**23**	87.93	**73**	97.93	**23**	107.93	**73**	117.93
24	65.73	**74**	70.73	**24**	75.73	**74**	80.73	**24**	88.13	**74**	98.13	**24**	108.13	**74**	118.13
25	65.83	**75**	70.83	**25**	75.83	**75**	80.83	**25**	88.33	**75**	98.33	**25**	108.33	**75**	118.33
26	65.93	**76**	70.93	**26**	75.93	**76**	80.93	**26**	88.53	**76**	98.53	**26**	108.53	**76**	118.53
27	66.03	**77**	71.03	**27**	76.03	**77**	81.03	**27**	88.73	**77**	98.73	**27**	108.73	**77**	118.73
28	66.13	**78**	71.13	**28**	76.13	**78**	81.13	**28**	88.93	**78**	98.93	**28**	108.93	**78**	118.93
29	66.23	**79**	71.23	**29**	76.23	**79**	81.23	**29**	89.13	**79**	99.13	**29**	109.13	**79**	119.13
4830	66.33	**4880**	71.33	**4930**	76.33	**4980**	81.33	**5030**	89.33	**5080**	99.33	**5130**	109.33	**5180**	119.33
4831	66.43	**4881**	71.43	**4931**	76.43	**4981**	81.43	**5031**	89.53	**5081**	99.53	**5131**	109.53	**5181**	119.53
32	66.53	**82**	71.53	**32**	76.53	**82**	81.53	**32**	89.73	**82**	99.73	**32**	109.73	**82**	119.73
33	66.63	**83**	71.63	**33**	76.63	**83**	81.63	**33**	89.93	**83**	99.93	**33**	109.93	**83**	119.93
34	66.73	**84**	71.73	**34**	76.73	**84**	81.73	**34**	90.13	**84**	100.13	**34**	110.13	**84**	120.13
35	66.83	**85**	71.83	**35**	76.83	**85**	81.83	**35**	90.33	**85**	100.33	**35**	110.33	**85**	120.33
36	66.93	**86**	71.93	**36**	76.93	**86**	81.93	**36**	90.53	**86**	100.53	**36**	110.53	**86**	120.53
37	67.03	**87**	72.03	**37**	77.03	**87**	82.03	**37**	90.73	**87**	100.73	**37**	110.73	**87**	120.73
38	67.13	**88**	72.13	**38**	77.13	**88**	82.13	**38**	90.93	**88**	100.93	**38**	110.93	**88**	120.93
39	67.23	**89**	72.23	**39**	77.23	**89**	82.23	**39**	91.13	**89**	101.13	**39**	111.13	**89**	121.13
4840	67.33	**4890**	72.33	**4940**	77.33	**4990**	82.33	**5040**	91.33	**5090**	101.33	**5140**	111.33	**5190**	121.33
4841	67.43	**4891**	72.43	**4941**	77.43	**4991**	82.43	**5041**	91.53	**5091**	101.53	**5141**	111.53	**5191**	121.53
42	67.53	**92**	72.53	**42**	77.53	**92**	82.53	**42**	91.73	**92**	101.73	**42**	111.73	**92**	121.73
43	67.63	**93**	72.63	**43**	77.63	**93**	82.63	**43**	91.93	**93**	101.93	**43**	111.93	**93**	121.93
44	67.73	**94**	72.73	**44**	77.73	**94**	82.73	**44**	92.13	**94**	102.13	**44**	112.13	**94**	122.13
45	67.83	**95**	72.83	**45**	77.83	**95**	82.83	**45**	92.33	**95**	102.33	**45**	112.33	**95**	122.33
46	67.93	**96**	72.93	**46**	77.93	**96**	82.93	**46**	92.53	**96**	102.53	**46**	112.53	**96**	122.53
47	68.03	**97**	73.03	**47**	78.03	**97**	83.03	**47**	92.73	**97**	102.73	**47**	112.73	**97**	122.73
48	68.13	**98**	73.13	**48**	78.13	**98**	83.13	**48**	92.93	**98**	102.93	**48**	112.93	**98**	122.93
49	68.23	**99**	73.23	**49**	78.23	**99**	83.23	**49**	93.13	**99**	103.13	**49**	113.13	**99**	123.13
4850	68.33	**4900**	73.33	**4950**	78.33	**5000**	83.33	**5050**	93.33	**5100**	103.33	**5150**	113.33	**5200**	123.33

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 299-300.

FOR MONTHLY SALARY INCOME BETWEEN Rs. 5,201 & Rs. 7,400

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given on page 280.

MONTHLY SALARY BETWEEN Rs. 5,201 & Rs. 5,300				MONTHLY SALARY BETWEEN Rs. 5,301 & Rs. 5,400				MONTHLY SALARY BETWEEN Rs. 5,410 & Rs. 6,400				MONTHLY SALARY BETWEEN Rs. 6,410 & Rs. 7,400			
Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.
5201	123.53	**5251**	133.53	**5301**	143.53	**5351**	153.53	**5410**	165.33	**5910**	265.33	**6410**	365.33	**6910**	465.33
02	123.73	**52**	133.73	**02**	143.73	**52**	153.73	**20**	167.33	**20**	267.33	**20**	367.33	**20**	467.33
03	123.93	**53**	133.93	**03**	143.93	**53**	153.93	**30**	169.33	**30**	269.33	**30**	369.33	**30**	469.33
04	124.13	**54**	134.13	**04**	144.13	**54**	154.13	**40**	171.33	**40**	271.33	**40**	371.33	**40**	471.33
05	124.33	**55**	134.33	**05**	144.33	**55**	154.33	**50**	173.33	**50**	273.33	**50**	373.33	**50**	473.33
06	124.53	**56**	134.53	**06**	144.53	**56**	154.53	**60**	175.33	**60**	275.33	**60**	375.33	**60**	475.33
07	124.73	**57**	134.73	**07**	144.73	**57**	154.73	**70**	177.33	**70**	277.33	**70**	377.33	**70**	477.33
08	124.93	**58**	134.93	**08**	144.93	**58**	154.93	**80**	179.33	**80**	279.33	**80**	379.33	**80**	479.33
09	125.13	**59**	135.13	**09**	145.13	**59**	155.13	**90**	181.33	**90**	281.33	**90**	381.33	**90**	481.33
5210	125.33	**5260**	135.33	**5310**	145.33	**5360**	155.33	**5500**	183.33	**6000**	283.33	**6500**	383.33	**7000**	483.33
5211	125.53	**5261**	135.53	**5311**	145.53	**5361**	155.53	**5510**	185.33	**6010**	285.33	**6510**	385.33	**7010**	485.33
12	125.73	**62**	135.73	**12**	145.73	**62**	155.73	**20**	187.33	**20**	287.33	**20**	387.33	**20**	487.33
13	125.93	**63**	135.93	**13**	145.93	**63**	155.93	**30**	189.33	**30**	289.33	**30**	389.33	**30**	489.33
14	126.13	**64**	136.13	**14**	146.13	**64**	156.13	**40**	191.33	**40**	291.33	**40**	391.33	**40**	491.33
15	126.33	**65**	136.33	**15**	146.33	**65**	156.33	**50**	193.33	**50**	293.33	**50**	393.33	**50**	493.33
16	126.53	**66**	136.53	**16**	146.53	**66**	156.53	**60**	195.33	**60**	295.33	**60**	395.33	**60**	495.33
17	126.73	**67**	136.73	**17**	146.73	**67**	156.73	**70**	197.33	**70**	297.33	**70**	397.33	**70**	497.33
18	126.93	**68**	136.93	**18**	146.93	**68**	156.93	**80**	199.33	**80**	299.33	**80**	399.33	**80**	499.33
19	127.13	**69**	137.13	**19**	147.13	**69**	157.13	**90**	201.33	**90**	301.33	**90**	401.33	**90**	501.33
5220	127.33	**5270**	137.33	**5320**	147.33	**5370**	157.33	**5600**	203.33	**6100**	303.33	**6600**	403.33	**7100**	503.33
5221	127.53	**5271**	137.53	**5321**	147.53	**5371**	157.53	**5610**	205.33	**6110**	305.33	**6610**	405.33	**7110**	505.33
22	127.73	**72**	137.73	**22**	147.73	**72**	157.73	**20**	207.33	**20**	307.33	**20**	407.33	**20**	507.33
23	127.93	**73**	137.93	**23**	147.93	**73**	157.93	**30**	209.33	**30**	309.33	**30**	409.33	**30**	509.33
24	128.13	**74**	138.13	**24**	148.13	**74**	158.13	**40**	211.33	**40**	311.33	**40**	411.33	**40**	511.33
25	128.33	**75**	138.33	**25**	148.33	**75**	158.33	**50**	213.33	**50**	313.33	**50**	413.33	**50**	513.33
26	128.53	**76**	138.53	**26**	148.53	**76**	158.53	**60**	215.33	**60**	315.33	**60**	415.33	**60**	515.33
27	128.73	**77**	138.73	**27**	148.73	**77**	158.73	**70**	217.33	**70**	317.33	**70**	417.33	**70**	517.33
28	128.93	**78**	138.93	**28**	148.93	**78**	158.93	**80**	219.33	**80**	319.33	**80**	419.33	**80**	519.33
29	129.13	**79**	139.13	**29**	149.13	**79**	159.13	**90**	221.33	**90**	321.33	**90**	421.33	**90**	521.33
5230	129.33	**5280**	139.33	**5330**	149.33	**5380**	159.33	**5700**	223.33	**6200**	323.33	**6700**	423.33	**7200**	523.33
5231	129.53	**5281**	139.53	**5331**	149.53	**5381**	159.53	**5710**	225.33	**6210**	325.33	**6710**	425.33	**7210**	525.33
32	129.73	**82**	139.73	**32**	149.73	**82**	159.73	**20**	227.33	**20**	327.33	**20**	427.33	**20**	527.33
33	129.93	**83**	139.93	**33**	149.93	**83**	159.93	**30**	229.33	**30**	329.33	**30**	429.33	**30**	529.33
34	130.13	**84**	140.13	**34**	150.13	**84**	160.13	**40**	231.33	**40**	331.33	**40**	431.33	**40**	531.33
35	130.33	**85**	140.33	**35**	150.33	**85**	160.33	**50**	233.33	**50**	333.33	**50**	433.33	**50**	533.33
36	130.53	**86**	140.53	**36**	150.53	**86**	160.53	**60**	235.33	**60**	335.33	**60**	435.33	**60**	535.33
37	130.73	**87**	140.73	**37**	150.73	**87**	160.73	**70**	237.33	**70**	337.33	**70**	437.33	**70**	537.33
38	130.93	**88**	140.93	**38**	150.93	**88**	160.93	**80**	239.33	**80**	339.33	**80**	439.33	**80**	539.33
39	131.13	**89**	141.13	**39**	151.13	**89**	161.13	**90**	241.33	**90**	341.33	**90**	441.33	**90**	541.33
5240	131.33	**5290**	141.33	**5340**	151.33	**5390**	161.33	**5800**	243.33	**6300**	343.33	**6800**	443.33	**7300**	543.33
5241	131.53	**5291**	141.53	**5341**	151.53	**5391**	161.53	**5810**	245.33	**6310**	345.33	**6810**	445.33	**7310**	545.33
42	131.73	**92**	141.73	**42**	151.73	**92**	161.73	**20**	247.33	**20**	347.33	**20**	447.33	**20**	547.33
43	131.93	**93**	141.93	**43**	151.93	**93**	161.93	**30**	249.33	**30**	349.33	**30**	449.33	**30**	549.33
44	132.13	**94**	142.13	**44**	152.13	**94**	162.13	**40**	251.33	**40**	351.33	**40**	451.33	**40**	551.33
45	132.33	**95**	142.33	**45**	152.33	**95**	162.33	**50**	253.33	**50**	353.33	**50**	453.33	**50**	553.33
46	132.53	**96**	142.53	**46**	152.53	**96**	162.53	**60**	255.33	**60**	355.33	**60**	455.33	**60**	555.33
47	132.73	**97**	142.73	**47**	152.73	**97**	162.73	**70**	257.33	**70**	357.33	**70**	457.33	**70**	557.33
48	132.93	**98**	142.93	**48**	152.93	**98**	162.93	**80**	259.33	**80**	359.33	**80**	459.33	**80**	559.33
49	133.13	**99**	143.13	**49**	153.13	**99**	163.13	**90**	261.33	**90**	361.33	**90**	461.33	**90**	561.33
5250	133.33	**5300**	143.33	**5350**	153.33	**5400**	163.33	**5900**	263.33	**6400**	363.33	**6900**	463.33	**7400**	563.33

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 300-301.

FOR MONTHLY SALARY INCOME BETWEEN Rs. 7,420 & Rs. 9,400

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given on page 280.

MONTHLY SALARY BETWEEN Rs. 7,420 & Rs. 8,400						MONTHLY SALARY BETWEEN Rs. 8,420 & Rs. 9,400					
Taxable Salary* Rs. P.	I.T. Rs. P.	Rebate u/s. 88D(b) Rs. P.	I.T. after rebate u/s. 88D(b) Rs. P.	Addl. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Salary* Rs. P.	I.T. Rs. P.	Rebate u/s. 88D(b) Rs. P.	I.T. after rebate u/s. 88D(b) Rs. P.	Addl. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.
7420	567.33					**8420**	767.33	680.66	86.67	1.73	88.40
40	571.33					**40**	771.33	664.66	106.67	2.13	108.80
60	575.33					**60**	775.33	648.66	126.67	2.53	129.20
80	579.33					**80**	779.33	632.66	146.67	2.93	149.60
7500	583.33					**8500**	783.33	616.66	166.67	3.33	170.00
7520	587.33					**8520**	787.33	600.66	186.67	3.73	190.40
40	591.33					**40**	791.33	584.66	206.67	4.13	210.80
60	595.33					**60**	795.33	568.66	226.67	4.53	231.20
80	599.33					**80**	799.33	552.66	246.67	4.93	251.60
7600	603.33					**8600**	803.33	536.66	266.67	5.33	272.00
7620	607.33					**8620**	807.33	520.66	286.67	5.73	292.40
40	611.33					**40**	811.33	504.66	306.67	6.13	312.80
60	615.33					**60**	815.33	488.66	326.67	6.53	333.20
80	619.33					**80**	819.33	472.66	346.67	6.93	353.60
7700	623.33					**8700**	823.33	456.66	366.67	7.33	374.00
7720	627.33					**8720**	827.33	440.66	386.67	7.73	394.40
40	631.33					**40**	831.33	424.66	406.67	8.13	414.80
60	635.33					**60**	835.33	408.66	426.67	8.53	435.20
80	639.33					**80**	839.33	392.66	446.67	8.93	455.60
7800	643.33					**8800**	843.33	376.66	466.67	9.33	476.00
7820	647.33					**8820**	847.33	360.66	486.67	9.73	496.40
40	651.33					**40**	851.33	344.66	506.67	10.13	516.80
60	655.33					**60**	855.33	328.66	526.67	10.53	537.20
80	659.33					**80**	859.33	312.66	546.67	10.93	557.60
7900	663.33					**8900**	863.33	296.66	566.67	11.33	578.00
7920	667.33					**8920**	867.33	280.66	586.67	11.73	598.40
40	671.33					**40**	871.33	264.66	606.67	12.13	618.80
60	675.33					**60**	875.33	248.66	626.67	12.53	639.20
80	679.33					**80**	879.33	232.66	646.67	12.93	659.60
8000	683.33					**9000**	883.33	216.66	666.67	13.33	680.00
8020	687.33					**9020**	887.33	200.66	686.67	13.73	700.40
40	691.33					**40**	891.33	184.66	706.67	14.13	720.80
60	695.33					**60**	895.33	168.66	726.67	14.53	741.20
80	699.33					**80**	899.33	152.66	746.67	14.93	761.60
8100	703.33					**9100**	903.33	136.66	766.67	15.33	782.00
8120	707.33					**9120**	907.33	120.60	786.67	15.73	802.40
40	711.33					**40**	911.33	104.66	806.67	16.13	822.80
60	715.33					**60**	915.33	88.66	826.67	16.53	843.20
80	719.33					**80**	919.33	72.66	846.67	16.93	863.60
8200	723.33					**9200**	923.33	56.66	866.67	17.33	884.00
8220	727.33					**9220**	927.33	40.66	886.67	17.73	904.40
40	731.33					**40**	931.33	24.66	906.67	18.13	924.80
60	735.33					**60**	935.33	8.66	926.67	18.53	945.20
80	739.33					**80**	939.33	NIL	939.33	18.79	958.12
8300	743.33					**9300**	943.33	NIL	943.33	18.87	962.20
8320	747.33					**9320**	947.33	NIL	947.33	18.95	966.28
40	751.33	744.66	6.67	0.13	6.80	**40**	951.33	NIL	951.33	19.03	970.36
60	755.33	728.66	26.67	0.53	27.20	**60**	955.33	NIL	955.33	19.11	974.44
80	759.33	712.66	46.67	0.93	47.60	**80**	959.33	NIL	959.33	19.19	978.52
8400	763.33	696.66	66.67	1.33	68.00	**9400**	963.33	NIL	963.33	19.27	982.60

In the case of a resident employee whose monthly/annual taxable salary does not exceed Rs. 8,333/Rs. 1,00,000, then such an employee is entitled to a deduction of the entire amount of income-tax payable on such monthly/annual taxable salary and hence income-tax payable by such employee is Rs. Nil [Vide section 88D(a)]. As income-tax payable is Rs. Nil, Addl. surcharge (i.e., Education Cess) @ 2% of Income-tax also will be Rs. Nil and as such against monthly taxable salary between Rs. 4,167 & Rs. 8,320, addl. S.C. (i.e., Education Cess) is not computed. Where the said employee's monthly/annual taxable salary exceeds Rs. 8,333/Rs. 1,00,000 but does not exceed Rs. 9,270/Rs. 1,11,240, then, such an employee is entitled to a rebate of (deduction from) income-tax u/s. 88D(b). The income-tax payable after rebate u/s. 88D(b) in respect of monthly salary between Rs. 8,340 & Rs. 9,260 is as per column No. 4 & 10. Addl. S.C. (i.e., Education Cess) on the I.T. after rebate u/s. 88D(b) is given in column No. 5 & 11.

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 298 & 300-301.

Surcharge on income-tax is payable where the annual taxable salary exceeds Rs. 8,50,000 (i.e., monthly taxable salary exceeds Rs. 70,833). Education Cess i.e., Addl. S.C. is payable @ 2% on aggregate of I.T. & S.C.

FOR MONTHLY SALARY INCOME BETWEEN Rs. 9,420 & Rs. 13,400

Amount of tax to be deducted per month† during the Financial year 2004-05

†Before you proceed to refer this table, please refer explanatory note marked† given on page 280.

MONTHLY SALARY BETWEEN Rs. 9,420 & Rs. 10,400				MONTHLY SALARY BETWEEN Rs. 10,420 & Rs. 11,400				MONTHLY SALARY BETWEEN Rs. 11,420 & Rs. 12,400				MONTHLY SALARY BETWEEN Rs. 12,420 & Rs. 13,400			
Taxable Salary* Rs.	I.T. Rs. P.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Salary* Rs.	I.T. Rs. P.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.
9420	967.33	19.35	986.68	**10420**	1167.33	23.35	1190.68	**11420**	1367.33	27.35	1394.68	**12420**	1567.33	31.35	1598.68
40	971.33	19.43	990.76	**40**	1171.33	23.43	1194.76	**40**	1371.33	27.43	1398.76	**40**	1571.33	31.43	1602.76
60	975.33	19.51	994.84	**60**	1175.33	23.51	1198.84	**60**	1375.33	27.51	1402.84	**60**	1575.33	31.51	1606.84
80	979.33	19.59	998.92	**80**	1179.33	23.59	1202.92	**80**	1379.33	27.59	1406.92	**80**	1579.33	31.59	1610.92
9500	983.33	19.67	1003.00	**10500**	1183.33	23.67	1207.00	**11500**	1383.33	27.67	1411.00	**12500**	1583.33	31.67	1615.00
9520	987.33	19.75	1007.08	**10520**	1187.33	23.75	1211.08	**11520**	1387.33	27.75	1415.08	**12520**	1589.33	31.79	1621.12
40	991.33	19.83	1011.16	**40**	1191.33	23.83	1215.16	**40**	1391.33	27.83	1419.16	**40**	1595.33	31.91	1627.24
60	995.33	19.91	1015.24	**60**	1195.33	23.91	1219.24	**60**	1395.33	27.91	1423.24	**60**	1601.33	32.03	1633.36
80	999.33	19.99	1019.32	**80**	1199.33	23.99	1223.32	**80**	1399.33	27.99	1427.32	**80**	1607.33	32.15	1639.48
9600	1003.33	20.07	1023.40	**10600**	1203.33	24.07	1227.40	**11600**	1403.33	28.07	1431.40	**12600**	1613.33	32.27	1645.60
9620	1007.33	20.15	1027.48	**10620**	1207.33	24.15	1231.48	**11620**	1407.33	28.15	1435.48	**12620**	1619.33	32.39	1651.72
40	1011.33	20.23	1031.56	**40**	1211.33	24.23	1235.56	**40**	1411.33	28.23	1439.56	**40**	1625.33	32.51	1657.84
60	1015.33	20.31	1035.64	**60**	1215.33	24.31	1239.64	**60**	1415.33	28.31	1443.64	**60**	1631.33	32.63	1663.96
80	1019.33	20.39	1039.72	**80**	1219.33	24.39	1243.72	**80**	1419.33	28.39	1447.72	**80**	1637.33	32.75	1670.08
9700	1023.33	20.47	1043.80	**10700**	1223.33	24.47	1247.80	**11700**	1423.33	28.47	1451.80	**12700**	1643.33	32.87	1676.20
9720	1027.33	20.55	1047.88	**10720**	1227.33	24.55	1251.88	**11720**	1427.33	28.55	1455.88	**12720**	1649.33	32.99	1682.32
40	1031.33	20.63	1051.96	**40**	1231.33	24.63	1255.96	**40**	1431.33	28.63	1459.96	**40**	1655.33	33.11	1688.44
60	1035.33	20.71	1056.04	**60**	1235.33	24.71	1260.04	**60**	1435.33	28.71	1464.04	**60**	1661.33	33.23	1694.56
80	1039.33	20.79	1060.12	**80**	1239.33	24.79	1264.12	**80**	1439.33	28.79	1468.12	**80**	1667.33	33.35	1700.68
9800	1043.33	20.87	1064.20	**10800**	1243.33	24.87	1268.20	**11800**	1443.33	28.87	1472.20	**12800**	1673.33	33.47	1706.80
9820	1047.33	20.95	1068.28	**10820**	1247.33	24.95	1272.28	**11820**	1447.33	28.95	1476.28	**12820**	1679.33	33.59	1712.92
40	1051.33	21.03	1072.36	**40**	1251.33	25.03	1276.36	**40**	1451.33	29.03	1480.36	**40**	1685.33	33.71	1719.04
60	1055.33	21.11	1076.44	**60**	1255.33	25.11	1280.44	**60**	1455.33	29.11	1484.44	**60**	1691.33	33.83	1725.16
80	1059.33	21.19	1080.52	**80**	1259.33	25.19	1284.52	**80**	1459.33	29.19	1488.52	**80**	1697.33	33.95	1731.28
9900	1063.33	21.27	1084.60	**10900**	1263.33	25.27	1288.60	**11900**	1463.33	29.27	1492.60	**12900**	1703.33	34.07	1737.40
9920	1067.33	21.35	1088.68	**10920**	1267.33	25.35	1292.68	**11920**	1467.33	29.35	1496.68	**12920**	1709.33	34.19	1743.52
40	1071.33	21.43	1092.76	**40**	1271.33	25.43	1296.76	**40**	1471.33	29.43	1500.76	**40**	1715.33	34.31	1749.64
60	1075.33	21.51	1096.84	**60**	1275.33	25.51	1300.84	**60**	1475.33	29.51	1504.84	**60**	1721.33	34.43	1755.76
80	1079.33	21.59	1100.92	**80**	1279.33	25.59	1304.92	**80**	1479.33	29.59	1508.92	**80**	1727.33	34.55	1761.88
10000	1083.33	21.67	1105.00	**11000**	1283.33	25.67	1309.00	**12000**	1483.33	29.67	1513.00	**13000**	1733.33	34.67	1768.00
10020	1087.33	21.75	1109.08	**11020**	1287.33	25.75	1313.08	**12020**	1487.33	29.75	1517.08	**13020**	1739.33	34.79	1774.12
40	1091.33	21.83	1113.16	**40**	1291.33	25.83	1317.16	**40**	1491.33	29.83	1521.16	**40**	1745.33	34.91	1780.24
60	1095.33	21.91	1117.24	**60**	1295.33	25.91	1321.24	**60**	1495.33	29.91	1525.24	**60**	1751.33	35.03	1786.36
80	1099.33	21.99	1121.32	**80**	1299.33	25.99	1325.32	**80**	1499.33	29.99	1529.32	**80**	1757.33	35.15	1792.48
10100	1103.33	22.07	1125.40	**11100**	1303.33	26.07	1329.40	**12100**	1503.33	30.07	1533.40	**13100**	1763.33	35.27	1798.60
10120	1107.33	22.15	1129.48	**11120**	1307.33	26.15	1333.48	**12120**	1507.33	30.15	1537.48	**13120**	1769.33	35.39	1804.72
40	1111.33	22.23	1133.56	**40**	1311.33	26.23	1337.56	**40**	1511.33	30.23	1541.56	**40**	1775.33	35.51	1810.84
60	1115.33	22.31	1137.64	**60**	1315.33	26.31	1341.64	**60**	1515.33	30.31	1545.64	**60**	1781.33	35.63	1816.96
80	1119.33	22.39	1141.72	**80**	1319.33	26.39	1345.72	**80**	1519.33	30.39	1549.72	**80**	1787.33	35.75	1823.08
10200	1123.33	22.47	1145.80	**11200**	1323.33	26.47	1349.80	**12200**	1523.33	30.47	1553.80	**13200**	1793.33	35.87	1829.20
10220	1127.33	22.55	1149.88	**11220**	1327.33	26.55	1353.88	**12220**	1527.33	30.55	1557.88	**13220**	1799.33	35.99	1835.32
40	1131.33	22.63	1153.96	**40**	1331.33	26.63	1357.96	**40**	1531.33	30.63	1561.96	**40**	1805.33	36.11	1841.44
60	1135.33	22.71	1158.04	**60**	1335.33	26.71	1362.04	**60**	1535.33	30.71	1566.04	**60**	1811.33	36.23	1847.56
80	1139.33	22.79	1162.12	**80**	1339.33	26.79	1366.12	**80**	1539.33	30.79	1570.12	**80**	1817.33	36.35	1853.68
10300	1143.33	22.87	1166.20	**11300**	1343.33	26.87	1370.20	**12300**	1543.33	30.87	1574.20	**13300**	1823.33	36.47	1859.80
10320	1147.33	22.95	1170.28	**11320**	1347.33	26.95	1374.28	**12320**	1547.33	30.95	1578.28	**13320**	1829.33	36.59	1865.92
40	1151.33	23.03	1174.36	**40**	1351.33	27.03	1378.36	**40**	1551.33	31.03	1582.36	**40**	1835.33	36.71	1872.04
60	1155.33	23.11	1178.44	**60**	1355.33	27.11	1382.44	**60**	1555.33	31.11	1586.44	**60**	1841.33	36.83	1878.16
80	1159.33	23.19	1182.52	**80**	1359.33	27.19	1386.52	**80**	1559.33	31.19	1590.52	**80**	1847.33	36.95	1884.28
10400	1163.33	23.27	1186.60	**11400**	1363.33	27.27	1390.60	**12400**	1563.33	31.27	1594.60	**13400**	1853.33	37.07	1890.40

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 300-302.

Surcharge on income-tax is payable where the annual taxable salary exceeds Rs. 8,50,000 (i.e., monthly taxable salary exceeds Rs. 70,833). Education Cess i.e., Addl. S.C. is payable @ 2% on aggregate of I.T. & S.C.

SALIENT FEATURES OF THE PROVISIONS RELATING TO ADVANCE TAX

Payable during the financial year ending on 31-3-1997 & subsequent years: (assessment years 1997-98 to 2005-06):

The provisions of the 'advance tax' scheme in respect of advance tax payable, during the financial year ending on 31-3-1997 and subsequent years, are as explained below:

(1) Income subject to advance tax:

[Section 207]

The advance tax shall be *payable on all the items of income* included in the total income chargeable to tax for the assessment year immediately following the financial year in which the advance tax is payable. This would mean that: (a) capital gains, and (b) income referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles, races including horse races, card games, other games, gambling or betting, will not be excluded from the total income for the purposes of computation of advance tax despite the fact that the said items of income are of non-recurring nature. In short, the whole of the total income chargeable to tax (referred to as the "current income") will be liable to payment of advance tax. Refer *Examples* on page 287.

(2) Conditions of liability to pay advance tax:

[Section 208]

Under section 208 it is obligatory to pay advance tax during the financial year in every case where the advance tax payable is Rs. 5,000 or more. Thus, if the advance tax payable as computed under section 209 is less than Rs. 5,000, there would be no obligation on the part of any assessee to pay advance tax during the financial year 1996-97 and subsequent years (assessment year 1997-98 and subsequent years).

(3) Computation of advance tax:

[Section 209]

(a) Where the calculation is made by the assessee for the purposes of payment of advance tax under section 210(1) or 210(2) or 210(5) or 210(6), he shall first estimate his current income and then calculate the income-tax thereon at the rates in force in the financial year. For the financial year ending on 31-3-2005, advance tax is to be calculated at the rates specified in Part III of the First Schedule to the Finance (No. 2) Act, 2004 [Section 209(1)(a)].

(b) Where the calculation is made by the "Assessing Officer" by an order made under section 210(3), the income-tax shall be calculated by him at the rates in force in the financial year:

(i) on the total income assessed as per the latest regular assessment, or

(ii) on the total income returned by the assessee for any subsequent previous year,

whichever is higher [Section 209(1)(b)].

However, where a return is furnished by the assessee under section 139 or in response to notice under section 142(1) or a regular assessment is made in respect of the previous year later than that referred to in (b)(i) & (b)(ii) above, the Assessing Officer may issue an amended order under section 210(4) on the basis of such return or regular assessment. The income-tax will have to be calculated by him on the total income thus returned or assessed, as the case may be, at the rates in force in the relevant financial year [Section 209(1)(c)].

NOTES:

1. The income-tax calculated by the assessee or the Assessing Officer, as the case may be, shall be reduced by the amount of income-tax deductible or collectible at source during the relevant financial year under any provision of the Income-tax Act from any income (as computed before allowing any deductions under the Income-tax Act) which has been taken into account in computing current income. The amount of income-tax so reduced shall be the advance tax payable in that year [Section 209(1)(d)].

2. Net agricultural income, if any, is to be taken into account while computing "advance tax" [Section 209(2)]. In cases where the net agricultural income does not exceed Rs. 5,000 (as against Rs. 600, upto assessment year 2001-02), it is to be ignored [Section 2(2)/2(10) of the Finance (No. 2) Act, 2004].

3. There is no distinction in the tax rates applicable to specified Hindu undivided families (i.e., those with one or more members having independent taxable income) and non-specified Hindu undivided families. Thus, for assessment year 2005-06, same rates i.e., those specified in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2004, will apply to all Hindu undivided families.

(4) Procedure for the payment of advance tax during the financial year 1996-97 & subsequent years (assessment year 1997-98 and onwards):

[Section 210]

It is no longer necessary for the assessee to file statement of advance tax or estimate of advance tax. Filing of estimate of advance tax (i.e., intimation in the prescribed Form No. 28A) would be necessary only where the Assessing Officer has issued a demand notice under section 210 and the assessee estimates advance tax payable at a lesser figure [Refer sub-item (b) hereafter].

The procedure for payment of advance tax during financial year 1996-97 and subsequent years is laid down in section 210. The relevant provisions of this section are as explained hereunder:

(a) Payment of advance tax by the assessee of his own accord:

[Section 210(1) & 210(2)]

Every person who is liable to pay advance tax under section 208 (i.e., in cases where the advance tax payable is Rs. 5,000 or more), *whether or not he has been previously assessed by way of regular assessment,* shall, of his own accord, pay, on or before the due dates specified in section 211(1) [refer item (5) on page 287], the appropriate percentage, of the advance tax on his current income calculated under section 209 as explained in item (3) on page 285 [Section 210(1)].

An assessee who has paid any instalment or instalments of advance tax under section 210(1) as explained above, may increase or reduce the amount of advance tax payable in the remaining instalment or instalments in accordance with his estimate of the current income and make payment of the said amount in the remaining instalment or instalments as specified in section 211(1) [Section 210(2)].

(b) Payment of advance tax in pursuance of an order of the Assessing Officer:

[Section 210(3), 210(4), 210(5) & 210(6)]

In the case of a person who has already been assessed by way of regular assessment in respect of the total income of any previous year[1] may be required by the Assessing Officer by issue of an order in writing under section 210(3), at any time during the financial year but not later than the last day of February, to pay advance tax calculated under section 209(1)(b). The Assessing Officer will issue notice of demand under section 156 to such assessee in pursuance of the said order specifying the instalment or instalments in which such tax is to be paid [Section 210(3)].

If, after making an order under section 210(3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to notice under section 142(1) or a regular assessment of the assessee is made in respect of a previous year later than that referred to in section 210(3), the Assessing Officer may issue an amended order under section 210(4) with a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211(1) following after the date of the amended order, the appropriate percentage of advance tax computed on the basis of total income declared in such return or in respect of which the regular assessment aforesaid has been made [Section 210(4)].

An assessee who is served with a notice of demand in pursuance of an order of the Assessing Officer under section 210(3) or an amended order under section 210(4) may, if in his estimation the advance tax payable on his current income would be less than the amount of advance tax specified in such order or amended order, send an *intimation in the prescribed Form No. 28A* to the Assessing Officer to that effect and pay such advance tax calculated under section 209 in accordance with his estimate on or before the due date or each of the due dates specified in section 211(1) falling after the date of such intimation [Section 210(5)].

In cases where the advance tax payable in pursuance of an order of the Assessing Officer under section 210(3) or amended order under section 210(4) is estimated by the assessee to exceed the amount of advance tax specified in the said order or amended order or intimated by him under section 210(5), he shall pay on or before the due date of the last instalment specified in section 211(1), the appropriate part or, as the case may be, the whole of such higher amount of advance tax in accordance with his estimate in the manner laid down in section 209 [Section 210(6)].

To summarise, the calculation for the payment of advance tax is to be made by the assessee at the rates in force in the relevant financial year where the payment is to be made under section 210(1) or section 210(2) or section 210(5) or section 210(6), while such calculation is to be made by the Assessing Officer for making an order under section 210(3) or amended order under section 210(4).

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1. Upto 31-5-2002, after the words 'previous year', add 'and who has not paid any advance tax u/s. 210(1) [as explained in sub-item (a) above]'.

(5) Advance tax when payable:

[Section 211]

Advance tax as calculated under section 209 on the current income shall be payable in three instalments (four instalments, in the case of an assessee being a company) during each financial year. Under section 211(1), the due date of payment and the amount payable in each instalment during financial year ending on 31-3-1997 and subsequent years is indicated in the following table:

(A) IN THE CASE OF COMPANIES:

TABLE I

Due date of instalment[2]	*Amount payable*
1. On or before the 15th June . .	Not less than 15% of such advance tax.
2. On or before the 15th September . .	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
3. On or before the 15th December . .	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
4. On or before the 15th March[3] . .	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(B) IN THE CASE OF ASSESSEES (OTHER THAN COMPANIES):

TABLE II

Due date of instalment[2]	*Amount payable*
1. On or before the 15th September . .	Not less than 30% of such advance tax.
2. On or before the 15th December . .	Not less than 60% of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
3. On or before the 15th March[3] . .	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Where the current income includes capital gains and/or income of the nature referred to in section 2(24)(ix) (i.e., winnings from lotteries, crossword puzzles, races including horse races, card games, other games, gambling or betting), the assessee should pay the whole amount of tax payable thereon as part of the remaining instalments of advance tax which are due after the accrual or arising of the said types of income. In a case where such income arises after 15th March, after the payment of last instalment of advance tax, the whole amount of advance tax payable thereon should be paid on or before 31st March [First proviso to section 234C(1) read with proviso to section 211(1)].

If notice of demand issued u/s. 156 in pursuance of an order of the Assessing Officer u/s. 210(3) or an amended order u/s. 210(4) is served after any of the due dates specified in the above Table I, or the case may be, II, the appropriate part or, as the case may be, the whole of the amount of advance tax specified in such notice shall be payable on or before those dates falling after the date of service of the notice of demand [Section 211(2)].

Examples:

1. Mr. Joshi (aged 50 years) estimates his income for the financial year ending 31-3-2005 (assessment year 2005-06) from various sources as under:

1.	Business income	Rs. 1,24,000
2.	Property income (let-out)	Rs. 13,650
3.	Interest income on deposit with bank (tax @ source Rs. 1,668) gross	Rs. 16,350
4.	Dividend income, referred to in section 115-O, from M/s. A. & Co. Ltd. Rs. 50,000/income in respect of units of: (a) a Mutual Fund [referred to in section 10(23D); (b) from the Administrator of the specified undertaking; (c) Specified company, Rs. 20,000, is exempt u/s. 10(34)/10(35).	Rs. NIL
		Rs. 1,54,000
Less:	Deduction under Chapter VI-A: Interest from bank: Deduction u/s. 80L(1) restricted to	Rs. 12,000
	Income (called "current income") subject to advance tax . .	Rs. 1,42,000

2. If the last day of payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable u/s. 234B/234C would not be charged [Circular No. 676, dt. 14-1-1994: 205 ITR (St.) 330].

3. Any amount paid by way of advance tax on or before 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all purposes of the Income-tax Act [Proviso to section 211(1)].

Income-tax chargeable on current income Rs. 1,42,000 (Refer page 301)		Rs. 17,400
Less: Rebate of (deduction from) income-tax u/s. 88[4]: As gross total income is Rs. 1,54,000, deduction @ 15% of life insurance premia paid Rs. 26,667		Rs. 4,000
Income-tax payable on current income Rs. 1,42,000		Rs. 13,400
Add: Additional surcharge (i.e., Education Cess) @ 2% of I.T. Rs. 13,400		Rs. 268
Income-tax and additional surcharge on I.T. payable on current income		Rs. 13,668
Less: Tax deductible @ source on interest from bank Rs. 1,668		Rs. 1,668
Advance tax payable during financial year 2004-05		Rs. 12,000

Mr. Joshi has to pay the advance tax of Rs. 12,000 in three instalments as specified below:

Due date of instalment[5]	*Amount of instalment payable*	
On or before 15-9-2004	Rs. 3,600	(being 30% of Rs. 12,000)
On or before 15-12-2004	Rs. 3,600	(being 60% of Rs. 12,000 i.e., Rs. 7,200 *less* Rs. 3,600 paid on 15-9-2004)
On or before 15-3-2005	Rs. 4,800	[being whole of Rs. 12,000 *less* Rs. 7,200 (Rs. 3,600 paid on 15-9-2004 *plus* Rs. 3,600 paid on 15-12-2004)].
Total	Rs. 12,000	

2. In the above *Example* 1, after payment of last instalment of advance tax on or before 15-3-2005, Mr. Joshi sells *land* on 18-3-2005. Long-term capital gains on the sale of *land* computed under section 48 [Refer item 4 on page 144] is Rs. 50,000. Revised income subject to advance tax (called "current income") for the purpose of payment of advance tax on long-term capital gains[6] by 31-3-2005 will be as under:

Income subject to advance tax [as worked out in *Example* 1 on page 287]	Rs. 1,42,000
Add: Long-term capital gains (arose on 18-3-2005[7] on sale of land)	Rs. 50,000
Revised income (called "current income") subject to advance tax for the purpose of payment of advance tax by 31-3-2005	Rs. 1,92,000

Advance tax payable on long-term capital gains Rs. 50,000:

Income-tax @ 20% u/s. 112(1)(a)(ii) :	
20% (flat rate of income-tax) × Rs. 50,000 (long-term capital gains)	Rs. 10,000
Add: Additional surcharge (i.e., Education Cess) @ 2% of Rs. 10,000	Rs. 200
Advance tax payable on long-term capital gains by 31-3-2005[7]	Rs. 10,200

Notes: (1) Shri Joshi is neither required to file statement of advance tax nor estimate of income.
(2) The whole amount of tax on capital gains has to be paid as part of the remaining instalments of advance tax which are due after the said capital gains arose as explained in *Example 2* above in order to avoid levy of interest under section 234C. It may be noted that the loss under the head "Capital gains" (whether short-term or long-term) cannot be set off against any other head of income in the same previous year [Vide section 71(3)]. From assessment year 2003-04 and onwards, loss relating to long-term capital asset cannot be set off/carried forward for set off, against gains relating to short-term capital asset in the same/following, assessment year [Section 70(3)/74(1)(b)].

(6) Consequences for non-payment of advance tax: [Section 218]

If an assessee does not pay on the date specified in section 211(1), any instalment of advance tax that he is required to pay by an order of the Assessing Officer under section 210(3) or section 210(4) and does not send to the Assessing Officer an intimation u/s. 210(5) or does not pay the advance tax on the basis of his estimate u/s. 210(6), he shall be deemed to be an assessee in default in respect of such instalment or instalments. Where an assessee is deemed to be in default, penalty u/s. 221 is leviable for the unpaid instalment or instalments. For other defaults in payment of advance tax, penal interest u/s. 234B and/or 234C is leviable. No penalty is leviable for such defaults u/s. 273 in relation to assessment year 1989-90 and subsequent years [Vide section 273(3)].

4. For rebate of (deduction from) income-tax u/s. 88, refer pp. 237-242.
5. Refer footnote No. 8 on page 289.
6. Capital gains as well as income referred to in section 2(24)(ix) is to be included in the current income [Vide section 207].
7. As the long-term capital gains arose on 18-3-2005 (i.e., after last instalment of advance tax due on or before 15-3-2005), the whole of the amount of advance tax payable Rs. 10,200 in respect of long-term capital gains is to be paid by 31-3-2005 [Vide 1st proviso to section 234C(1) read with proviso to section 211(1)].

If the long-term capital gains arose say on 18-12-2004 (i.e., after expiry of 2nd instalment of advance tax due on or before 15-12-2004), the whole of the amount of tax payable amounting to Rs. 10,200 in respect of the said capital gains is to be paid as part of the remaining instalment of advance tax which is due i.e., on or before 15-3-2005. On or before 15-3-2005, Mr. Joshi has to pay a sum of Rs. 15,000 [i.e., Rs. 4,800 as worked out in *Example* 1 *plus* Rs. 10,200 being tax on the said capital gains (as worked out above)] as instalment of advance tax.

Accordingly, if the long-term capital gains arose say on 18-9-2004 (i.e., after expiry of 1st instalment of advance tax due on or before 15-9-2004), the whole amount of tax payable amounting to Rs. 10,200 in respect of the said capital gains is to be paid as part of the remaining instalments of advance tax which are due i.e., on or before 15-12-2004 and 15-3-2005. Mr. Joshi has to pay: (1) on or before 15-12-2004, a sum of Rs. 9,720 [i.e., Rs. 3,600 (as worked out in *Example* 1) *plus* Rs. 6,120 (being 60% of Rs. 10,200 tax on the said capital gains as worked out above)], and (2) on or before 15-3-2005, a sum of Rs. 8,880 [i.e., Rs. 4,800 (as worked out in *Example* (1) *plus* Rs. 4,080 (being Rs. 10,200 tax on the said capital gains (as worked out above) *less* Rs. 6,120 paid on or before 15-12-2004].

(7) Interest, chargeable for defaults in, and receivable for, payment of advance tax:
[Sections 234B, 234C & 244A]

The provisions relating to the levy of interest under sections 215, 216 & 217 for defaults in the payment of advance tax or failure to furnish statutory estimates of advance tax or for filing false estimates of advance tax are explained with examples vide item (A) on pp. 301-304 of the Income-tax Ready Reckoner 1988-89 (Golden Jubilee Year Publication). Those provisions were applicable to assessments for the assessment year 1988-89 and earlier years but will not apply to defaults in relation to the assessment year 1989-90 and any subsequent years [Refer section 214(3)]. However, interest for such defaults is chargeable u/s. 234B & 234C as stated hereafter.

(i) Interest chargeable for defaults in payment of advance tax:
[Section 234B[8]]

Where the assessee fails to pay advance tax which he is liable to pay u/s. 208 or, where the advance tax paid under the provisions of section 210 is less than 90% of the assessed tax, he shall be liable to pay simple interest which is mandatory[9] —

(1) upto 31-5-1999, at the rate of 2% for every month or part of a month,
(2) from 1-6-1999 to 31-5-2001, at the rate of $1^1/_2$% for every month or part of a month,
(3) from 1-6-2001 to 7-9-2003, at the rate of $1^1/_4$% for every month or part of a month,
(4) ***from 8-9-2003 and onwards, at the rate of 1% for every month or part of a month,***

comprised in the period from 1st April next following the financial year in which the advance tax was payable (i.e., 1st April of the relevant assessment year) to the date of determination of total income u/s. 143(1) and where a regular assessment is made, to the date of such regular assessment. The interest shall be chargeable on the entire amount of the assessed tax for failure to pay advance tax or, as the case may be, on the difference between the assessed tax and the advance tax paid u/s. 210.

For the purposes of this section, "assessed tax" means the tax on the total income determined u/s. 143(1) or on regular assessment as reduced by the amount of tax deducted or collected at source on any income, which is subject to such deduction or collection under Chapter XVII, and which is taken into account in computing such total income [*Explanation* 1 to section 234B(1)].

Where an assessee has paid tax as self-assessment u/s. 140A or otherwise before the date of determination of total income u/s. 143(1) or completion of the regular assessment, the interest shall be calculated at the prescribed rate/rates on the liable amount in two stages; first, from 1st April of the relevant assessment year to the date of payment of such tax and thereafter on the liable amount as reduced by such payment upto the date of regular assessment. Where the interest has been paid by the assessee along with self-assessment tax u/s. 140A, such interest shall be reduced from the interest chargeable upto the date of such payment [Section 234B(2)].

Notes: (1) Where an assessment is made for the first time under section 147 or, w.e.f. 1-6-2003, section 153A, the assessment so made shall be regarded as regular assessment for the purposes of section 234B [*Explanation* 2 to section 234B(1)].

(2) The "tax on the total income determined under section 143(1)" shall not include additional income-tax, if any, payable under section 143(1A), for levying the interest under section 234B [*Explanation* 3 to section 234B(1)].

(3) Where, as a result of re-assessment or re-computation under section 147 or, w.e.f. 1-6-2003, section 153A, or as a result of any rectification under section 154 or as a result of any appeal or revision or order of the Settlement Commission under section 245D(4), the amount on which interest was payable has been increased or decreased, as the case may be, the interest shall be increased or decreased accordingly. Where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable. In a case where the interest is reduced, the excess interest paid, if any, shall be refunded [Sub-sections (3) & (4) of section 234B].

(4) Interest is payable for every month or part of a month which means that fraction of a month will not be ignored and interest at the prescribed rate/rates will be charged even for part of a month [Section 234B(1)].

(5) The interest leviable under sections 234B and 234C [discussed in sub-items (i) & (ii) of item (7)] is mandatory[9] and there is no provision in the Act for reduction or waiver of this interest.

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8. If the last day of payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable u/s. 234B/234C would not be charged [Circular No. 676, dt. 14-1-1994: 205 ITR (St.) 330].

9. In cases where any income accrues or arises for any previous year due to operation of any order of court, statutory authority or of the Government passed after the close of the said previous year, interest u/s. 234A, 234B & 234C shall be reduced or waived by the Chief Commissioner of Income-tax/Director-General of Income-tax subject to the conditions, for the period and to the extent specified in Order u/s. 119(2)(a) [Vide F. No. 212/495/92-ITA. II, dt. 2-5-1994: 208 ITR (St.) 3]. Also refer Board's clarifications on waiver or reduction of interest on page 198.

Examples:

(1) Shri Joshi files the return of income for the assessment year 2004-05 on 29-10-2004 (due date for filing return is 31-10-2004) declaring income of Rs. 1,45,000. He is not entitled to rebate of (deduction from) income-tax u/s. 88 & 88B. Tax deducted at source is Rs. 1,400 and advance tax paid is Rs. 14,000 [on or before 15-9-2003, Rs. 5,100; on or before 15-12-2003, Rs. 5,100; and on or before 15-3-2004, Rs. 3,800]. The interest payable for default in payment of advance tax u/s. 234B/deferment of advance-tax u/s. 234C(1)(b)(ii) alongwith the self-assessment tax payable u/s. 140A is as under:

Income-tax [surcharge on income-tax 'Nil' as the total (taxable) income does not exceed Rs. 8,50,000] on Rs. 1,45,000 [being total (taxable) income declared in return] (Refer page 245) . .	Rs. 18,000
Less: Tax deducted at source . .	Rs. 1,400
Assessed tax . .	Rs. 16,600
Less: Advance tax paid . .	Rs. 14,000
Short-fall in payment of advance tax . .	Rs. 2,600
90% of the assessed tax Rs. 16,600 . .	Rs. 14,940

As the advance tax paid (Rs. 14,000) is less than 90% of the assessed tax (i.e., Rs. 14,940), Shri Joshi is liable to pay interest u/s. 234B and 234C(1)(b)(ii) on the short-fall of Rs. 2,600 along with the self-assessment tax u/s. 140A as under:

Self-assessment tax . .		Rs. 2,600
Add: (1) Interest under section 234B:		
Interest from 1-4-2004 to 31-10-2004 [7 months (6 months & 28 days i.e., part of a month)] @ 1% p.m. on short-fall of Rs. 2,600 i.e., 7 months × interest @ 1% p.m. × Rs. 2,600 short-fall . .	Rs. 182	
(2) Interest under section 234C(1)(b)(ii):		
Interest @ 1% on short-fall of Rs. 2,600 [Rs. 18,000 *less* Rs. 15,400 (Rs. 1,400 tax @ sou. *plus* Rs. 14,000 advance tax paid)] . .	Rs. 26	Rs. 208
Self-assessment tax and interest payable u/s. 234B and 234C(1)(b)(ii) on or before 29-10-2004		Rs. 2,808

Note: The return shall be accompanied by proof of payment of self-assessment tax and interest [Section 140A(1)].

(2) Shri Mehra's assessed income for the assessment year 2004-05 on regular assessment completed say on 7-1-2005 is Rs. 98,000. Tax deducted at source is Rs. 1,500 and advance tax paid on or before 15-3-2004 is Rs. 5,100. He is not entitled to rebate of (deduction from) income-tax u/s. 88 & 88B. On the basis of returned income of Rs. 88,000 filed by due date, neither self-assessment tax nor interest u/s. 234A or 234B or 234C was payable.

Income-tax [surcharge on income-tax 'Nil' as the total (taxable) income does not exceed Rs. 8,50,000] on Rs. 98,000 assessed income (Refer page 245). .	Rs. 8,600
Less: Tax deducted at source . .	Rs. 1,500
Assessed tax . .	Rs. 7,100
Less: Advance tax paid . .	Rs. 5,100
Short-fall in payment of advance tax . .	Rs. 2,000
90% of the assessed tax Rs. 7,100 . .	Rs. 6,390

As the advance tax paid (Rs. 5,100) is less than 90% of the assessed tax (i.e., Rs. 6,390), Shri Mehra will be liable to pay interest u/s. 234B from 1-4-2004 to the date of regular assessment i.e., 7-1-2005 on the short-fall of Rs. 2,000 as under:

(i) Interest from 1-4-2004 to 31-12-2004 (9 completed months) @ 1% per month on Rs. 2,000 short-fall i.e., 9 months × interest @ 1% p.m. × Rs. 2,000 (short-fall). .	Rs. 180
(ii) Interest from 1-1-2005 to 7-1-2005 (7 days i.e., part of a month) @ 1% per month on Rs. 2,000 short-fall i.e., 1 month × interest @ 1% p.m. × Rs. 2,000 (short-fall). .	Rs. 20
Interest payable u/s. 234B by Shri Mehra on short-fall in payment of advance tax . .	Rs. 200

(ii) Interest payable for deferment of advance tax:

[Section 234C]

ASSESSMENT YEAR 1997-98 AND ONWARDS:

(A) In the case of assessees (other than companies):

As already explained in item (5)(B) on page 287, in the case of an assessee (other than a company), the advance tax is payable in three instalments at the prescribed percentage in respect of each instalment. In the first instalment at 30% of the advance tax on current income is payable on or before 15th September[10] of the relevant financial year. Likewise, in the second instalment at 60% of the advance tax due as reduced by the amount, if any, paid in the earlier instalment is payable on or before 15th December[10] of the relevant financial year. In the third instalment at 100% of the advance tax due as reduced by the amount, if any, paid in the earlier instalment or instalments is payable on or before 15th March[10] of the relevant financial year.

Where the assessee, other than a company, who is liable to pay advance tax u/s. 208 has failed to pay such tax or the advance tax paid by the assessee on his current income:

(1) on or before 15th September or on or before 15th December is less than 30% or 60%, respectively, of the "tax due on the returned income", then, the assessee shall be liable to pay simple interest (which is mandatory[11]) at the rate of 1% [$1\frac{1}{4}$%, *from 1-6-2001 to 7-9-2003;* $1\frac{1}{2}$%, *upto 31-5-2001*] per month for a period of three months on the amount of the short-fall from 30% or, as the case may be, 60%, of the "tax due on the returned income" [Section 234C(1)(b)(i)];

It may be noted that, only for assessment year 2001-02 (i.e., advance tax payable during the financial year 2000-01), interest u/s. 234C(1)(b) is not payable by an assessee (other than a company) in respect of short-fall in the payment of the "tax due on the returned income", where such short-fall is on account of increase in the rate of surcharge on income-tax from 10%/15% to 12%/17% subject to the condition that the said assessee has paid the amount of short-fall, on or before 15-3-2001, in respect of the instalment of advance tax due on 15-9-2000 and 15-12-2000 [3rd proviso to section 234C(1)].

(2) on or before 15th March is less than the "tax due on the returned income", then, the assessee shall be liable to pay simple interest (which is mandatory[11]) at the rate of 1% [$1\frac{1}{4}$%, from 1-6-2001 to 7-9-2003; $1\frac{1}{2}$%, *upto 31-5-2001*] on the amount of the shortfall from the "tax due on the returned income" [Section 234C(1)(b)(ii)].

For the purposes of section 234C(1) the "tax due on the returned income" means the tax chargeable on the total income declared in the return of income for the relevant assessment year as reduced by the amount of tax deductible or collectible at source on any income which is subject to such deduction or collection and which is taken into account in computing such income [*Explanation* to section 234C(1)].

However, if the total income includes any capital gains and/or income of the nature referred to in section 2(24)(ix) (i.e., winnings from lotteries, crossword puzzles, races including horse races, card games, other games, gambling or betting), interest on short-fall in payment of advance tax (arising on account of under-estimate or failure to estimate such income) under this section will not be levied, provided the whole of the amount of tax on such income is paid as part of the remaining instalment/instalments of advance tax which is/are due after such income arose or accrued. Refer *Example* 2 on page 288 [1st proviso to section 234C(1)].

Illustration: Suppose "tax due on the returned income" of Mr. A for the assessment year 2004-05 is Rs. 60,000 (i.e., tax on returned income *less* tax deducted or collected at source). Advance tax paid by him is Rs. 56,000 (Rs. 10,000 on 15-9-2003, Rs. 16,000 on 15-12-2003 and Rs. 30,000 on 15-3-2004).

Due date of instalment	Instalment payable	Instalment paid	Short-fall in payment of instalment	Interest payable on short-fall	Amount of interest payable
On or before 15-9-2003 . .	Rs. 18,000[12]	Rs. 10,000	Rs. 8,000	1% p.m. on Rs. 8,000 × 3 months (i.e., from 15-9-2003 to 15-12-2003)	Rs. 240
On or before 15-12-2003 . .	Rs. 26,000[13]	Rs. 16,000	Rs. 10,000	1% p.m. on Rs. 10,000 × 3 months (i.e., from 15-12-2003 to 15-3-2004)	Rs. 300
On or before 15-3-2004 . .	Rs. 34,000[14]	Rs. 30,000	Rs. 4,000	1% on Rs. 4,000	Rs. 40
			Total interest payable under section 234C . .		Rs. 580

Note: In the illustration given above, if the last instalment of advance tax Rs. 30,000 is paid, by Mr. A, after 15-3-2004, say on 31-3-2004, then, the interest payable u/s. 234C(1)(b)(ii) in respect of instalment due on or before 15-3-2004 would be Rs. 340 [i.e., 1% on Rs. 34,000 (Rs. 60,000 tax due on the returned income *less* Rs. 26,000 advance tax paid on or before 15-3-2004)].

10. Refer footnote No. 8 on page 289.
11. Refer footnote No. 9 on page 289.
12. Being 30% of Rs. 60,000 "tax due on returned income".
13. Being 60% of Rs. 60,000 "tax due on returned income" is Rs. 36,000 *less* Rs. 10,000 paid on 15-9-2003, as first instalment.
14. Being 100% of Rs. 60,000 "tax due on returned income" i.e., Rs. 60,000 *less* Rs. 26,000 paid on or before 15-12-2003 (i.e., Rs. 10,000 paid on 15-9-2003 *plus* Rs. 16,000 paid on 15-12-2003) = Rs. 34,000.

(B) In the case of companies only:

As already explained in item (5)(A) on page 287, in the case of a company, the advance tax is payable in four instalments at the prescribed percentage in respect of each instalment. In the first instalment at 15% of the advance tax on current income is payable on or before 15th June[15] of the relevant financial year. Likewise, in the second instalment at 45% of the advance tax due as reduced by the amount, if any, paid in the earlier instalment is payable on or before 15th September[15] of the relevant financial year. In the third instalment at 75% of the advance tax due as reduced by the amount, if any, paid in the earlier instalment or instalments is payable on or before 15th December[15] of the relevant financial year. In the fourth instalment at 100% of the advance tax due as reduced by the amount, if any, paid in the earlier instalment or instalments is payable on or before 15th March[15] of the relevant financial year.

Where the assessee, being a company, which is liable to pay advance tax u/s. 208 has failed to pay such tax or the advance tax paid by the company on its current income:

(1) on or before 15th June or on or before 15th September or on or before 15th December is less than 15% or 45% or 75%, respectively, of the "tax due on the returned income", then, the company shall be liable to pay simple interest (which is mandatory[16]) at the rate of 1% [$1\frac{1}{4}$%, from 1-6-2001 to 7-9-2003; $1\frac{1}{2}$%, *upto 31-5-2001*] per month for a period of three months on the amount of the short-fall from 15% or 45% or 75%, as the case may be, of the "tax due on the returned income" [Section 234C(1)(a)(i)].

However, if the advance tax paid by the company on its current income on or before 15th June or on or before 15th September, is not less than 12% or, as the case may be, 36%, of the "tax due on the returned income", then, it shall not be liable to pay any interest u/s. 234C(1)(a)(i) on the amount of the short-fall on those dates [Proviso to section 234C(1)(a)];

It may be noted that, only for assessment year 2001-02 (i.e., advance tax payable during the financial year 2000-01), interest u/s. 234C(1)(a) is not payable by a company in respect of short-fall in the payment of the "tax due on the returned income", where such short-fall is on account of increase in the rate of surcharge on income-tax from 10% to 11%/13% subject to the condition that the company has paid the amount of short-fall, on or before 15-3-2001, in respect of the instalment of advance tax due on 15-6-2000, 15-9-2000 and 15-12-2000 [2nd/3rd proviso to section 234C(1)].

(2) On or before 15th March is less than the "tax due on the returned income", then, the company shall be liable to pay simple interest (which is mandatory[16]) at the rate of 1% [$1\frac{1}{4}$%, from 1-6-2001 to 7-9-2003;$1\frac{1}{2}$%, *upto 31-5-2001*] on the amount of the short-fall from the "tax due on the returned income" [Section 234C(1)(a)(ii)].

For the purposes of section 234C(1) the "tax due on the returned income" means the tax chargeable on the total income declared in the return of income for the relevant assessment year as reduced by the amount of tax deductible or collectible at source on any income which is subject to such deduction or collection and which is taken into account in computing such income [*Explanation* to section 234C(1)].

However, if the total income includes any capital gains and/or income of the nature referred to in section 2(24)(ix) (i.e., winnings from lotteries, crossword puzzles, races including horse races, card games, other games, gambling or betting), interest on short-fall in payment of advance tax (arising on account of under-estimate or failure to estimate such income) under this section will not be levied, provided the whole of the amount of tax on such income is paid as part of the remaining instalment/instalments of advance tax which is/are due after such income arose or accrued. Refer *Example 2* on page 288 [1st proviso to section 234C(1)].

(iii) Interest on refunds:

[Section 244A]

Where refund is on account of excess payment of advance tax or tax collected at source or tax deducted at source, the period for which such interest is to be allowed will commence from 1st April of the relevant assessment year to the date on which the refund is granted (i.e., the date on which the refund order is issued). The delay, if any, in granting refund, if attributable to the assessee, then such period will be reduced from this period. The rate of interest is @ one-half per cent. [@ two-third per cent. from 1-6-2002 to 7-9-2003; @ three-fourth per cent. from 1-6-2001 to 31-5-2002; @ one per cent. from 1-10-1991 to 31-5-2001; @ one and one-half per cent. upto 30-9-1991] for every month or part of a month. No interest will, however, be payable if amount of refund is less than 10% of tax as determined under section 143(1) or on regular assessment. For further details, refer item 2 and *Examples* on page 200.

It may be noted that, w.e.f. 1-6-2003, where the refund granted to the assessee u/s. 143(1) is found to be not due on regular assessment, the assessee shall be liable to pay simple interest u/s. 234D on the whole or the excess amount so refunded. For details, refer sub-item (c) of item 1 on page 199.

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15. Refer footnote No. 8 on page 289.
16. Refer footnote No. 9 on page 289.

EXAMPLES
for
Individuals, Hindu undivided families, association of persons, non-residents, etc., etc.
with
Income comprising net agricultural income and non-agricultural income
FOR
ASSESSMENT YEARS 2004-05 & 2005-06

Notes: (1) There is no distinction in the rates of tax applicable to specified HUFs [i.e., those with one or more members having independent total (taxable) income exceeding the maximum amount not chargeable to tax[1]] and non-specified HUFs. The same rates of tax as those applicable to individuals, non-specified HUFs, association of persons, etc. will apply even to specified HUFs. Please refer tables given on pp. 243-249 for the assessment year 2004-05 and on pp. 299-305 for assessment year 2005-06.

(2) To work out the correct tax liability for the purpose of "advance tax" and "tax to be deducted from the annual estimated salary of an employee" for the financial year ending on 31-3-2005, please refer tables A to E on pp. 299-305.

ASSESSMENT YEAR 2005-06:

(1) The gross total income of an individual resident in India for asst. year 2005-06 is Rs. 1,01,500 which includes interest from bank amounting to Rs. 2,500.

Gross total income		Rs. 1,01,500
Less: Deduction under Chapter VI-A:		
Interest from bank: deduction under section 80L(1)	Rs. 2,500	Rs. 2,500
Taxable income		Rs. 99,000
Income-tax on taxable income of Rs. 99,000 for the assessment year 2005-06 (Refer page 301)		Rs. 8,800
Less: Rebate of (deduction from) income tax u/s. 88D(1):		
As the taxable income does not exceed Rs. 1,00,000, deduction @ 100% of income-tax Rs. 8,800 on taxable income Rs. 99,000		Rs. 8,800
Income-tax payable on taxable income of Rs. 99,000 for the assessment year 2005-06		Rs. NIL

Note: As income-tax payable is Rs. Nil, additional surcharge (i.e., Education Cess) @ 2% of I.T. is also Rs. Nil.

ASSESSMENT YEAR 2004-05:

(2) The gross total income of an individual/HUF[2] for assessment year 2004-05 is Rs. 90,000 which includes interest from banks on fixed deposits amounting to Rs. 14,000. Individual/HUF subscribes Rs. 6,000 to Public Provident Fund.

Gross total income		Rs. 90,000
Less: Deduction under Chapter VI-A:		
Interest from banks on fixed deposits	Rs. 14,000	
Maximum deduction u/s. 80L(1)		Rs. 12,000
Taxable income		Rs. 78,000
Income-tax on taxable income of Rs. 78,000 for the assessment year 2004-05 (Refer page 245)		Rs. 4,600
Less: Rebate of (deduction from) income tax u/s. 88[3]:		
Subscription to Public Provident Fund Rs. 6,000:		
Deduction @ 20% of Rs. 6,000 from the amount of income-tax chargeable		Rs. 1,200
Income-tax[4] payable on taxable income of Rs. 78,000 for the assessment year 2004-05		Rs. 3,400

(3) The gross total income of an individual/HUF for assessment year 2004-05 consists of:

(a)	Business income		Rs. 71,000
(b)	Long-term capital gains in respect of land arose on 9-12-2003:		
	Sale proceeds [received on 9-12-2003]	Rs. 60,300	
	Less: Cost of acquisition [acquired on 10-1-1982]	Rs. 10,000	
	Indexed cost of acquisition [Vide 2nd proviso to section 48]: Rs. 10,000 (cost of acquisition) × 463[5] (Cost Inflation Index of the financial year of sale i.e., 2003-04)÷100[5] (Cost Inflation Index of the financial year of acquisition i.e., 1981-82) = Rs. 46,300	Rs. 46,300	Rs. 14,000
	Carried forward		Rs. 85,000

1. The maximum amount not chargeable to tax is Rs. 50,000 for the assessment years 2004-05 and 2005-06.
2. Income under the head "Salaries" and "Long-term capital gains" during the year is Rs. Nil.
3. Rebate of (deduction from) income-tax under section 88(1) is 20%, or 15%, or Nil%, as the case may be, of the aggregate amount of specified savings (refer pp. 237-242) viz. Life insurance premia, NSC VIII Issue, Provident Fund, etc. For further details and *Examples,* refer pp. 237-242.
4. Surcharge on income-tax is not payable as the taxable income does not exceed Rs. 8,50,000.
5. For Notification on Cost Inflation Index, refer page 145/cover page 3.

	Brought forward . .			Rs. 85,000
(c)	Interest from banks			Rs. 2,000
	Gross total income inclusive of long-term capital gains			Rs. 87,000
	Less: Long-term capital gains			Rs. 14,000
	Gross total income as reduced by long-term capital gains			Rs. 73,000
	Less: Deduction under Chapter VI-A:			
	Deduction u/s. 80L(1): Interest from banks			Rs. 2,000
	Taxable income as reduced by long-term capital gains		(A)	Rs. 71,000
	Add: Long-term capital gains		(B)	Rs. 14,000
	Taxable income inclusive of long-term capital gains		(C)	Rs. 85,000
	Income-tax on Rs. 71,000 taxable income [as reduced by long-term capital gains as per (A)] (Refer page 244)	Rs. 3,200		
	Less: Rebate of (deduction from) income tax u/s. 88[6]:			
	Life insurance premia paid Rs. 12,500:			
	Deduction @ 20% of Rs. 12,500 from the amount of income-tax chargeable	Rs. 2,500		
	Income-tax payable on Rs. 71,000 taxable income as reduced by long-term capital gains [Refer (A)]	Rs. 700	Rs.	700
	Add: Income-tax @ 20% on long-term capital gains Rs. 14,000 u/s. 112(1)(a)(ii)[7] [Refer (B)] . .		Rs.	2,800
	Income-tax[8] payable on taxable income inclusive of long-term capital gains Rs. 85,000 [Refer (C)] for assessment year 2004-05		Rs.	3,500

ASSESSMENT YEAR 2004-05 :

Agricultural & non-agricultural income

(4) An individual's gross non-agricultural income & gross agricultural income is as under:

(a)	Gross non-agricultural income [long-term capital gain/salary Rs. Nil]	Rs. 90,000		
	Less: Deduction u/s. 80L(1) for interest from banks	Rs. 5,000		
	Non-agricultural income	Rs. 85,000	Rs.	85,000
(b)	Gross agricultural income	Rs. 25,000		
	Less: Expenditure incurred wholly & exclusively for the purposes of carrying on agricultural operations and tax levied by State Govt. on such income . .	Rs. 10,000		
	Net agricultural income	Rs. 15,000	Rs.	15,000
	Aggregated income		Rs.	1,00,000
	Income-tax on aggregated income of Rs. 1,00,000 as if it is the total income (Refer page 245)		Rs.	9,000
	Net agricultural income	Rs. 15,000		
	Add: Rs. 50,000 as per section 2(2) of the Finance (No. 2) Act, 2004.	Rs. 50,000		
		Rs. 65,000		
	Less: Income-tax on Rs. 65,000 (Refer page 244)		Rs.	2,000
	Income-tax[8] on non-agricultural income Rs. 85,000 for assessment year 2004-05		Rs.	7,000

Note: In cases where the non-agricultural taxable income is Rs. 50,000 or *less* for the assessment year 2004-05/ Rs. 50,000 or *less* for the assessment year 2005-06; and net agricultural income of any amount, there will be no liability to pay tax/advance tax for the assessment years 2004-05/2005-06. Further, in cases where the net agricultural income does not exceed Rs. 5,000 (for assessment year 2004-05)/Rs. 5,000 (for assessment year 2005-06), it shall be ignored for the purpose of computing the tax/advance tax.

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6. Refer footnote No. 3 on page 293.

7. Under section 48, long-term capital gains will be computed by deducting from the full value of consideration, the expenditure incurred in connection with the transfer, the 'indexed cost of acquisition' and 'indexed cost of improvement', if any, as worked out in the *Example.* Long-term capital gains will be taxed u/s. 112(1) [For further details, refer item 4 on page 144 & item 7 on page 162].

8. Surcharge on income-tax is not payable as the taxable income does not exceed Rs. 8,50,000.

ASSESSMENT YEAR 2004-05:

(5) The taxable income (other than winnings from lotteries & long-term capital gains) of an individual for the assessment year 2004-05 is Rs. 65,000 and winnings from lotteries is Rs. 40,000.

Taxable income (other than winnings from lotteries & long-term capital gains)		Rs. 65,000
Add: Winnings from lotteries	Rs. 40,000	
Less: Exclusion under section 10(3)[9]	Rs. Nil[9]	Rs. 40,000
Total (taxable) income		Rs. 1,05,000

Computation of tax on:

(a) Winnings from lotteries:	
@ flat rate of 30%[10] on Rs. 40,000	Rs. 12,000
(b) Reduced total (taxable) income Rs. 65,000 (Rs. 1,05,000 *less* Rs. 40,000):	
Income-tax[11] on Rs. 65,000 (Refer page 244)	Rs. 2,000
Aggregate tax for assessment year 2004-05	Rs. 14,000

ASSESSMENT YEAR 2004-05:

(6) The gross total income of an individual/HUF, for assessment year 2004-05, consists of:

(a) Business income			Rs. 1,10,000
(b) Long-term capital gains in respect of land arose on 6-1-2004:			
Sale proceeds [received on 6-1-2004]	Rs. 62,040		
Less: Cost of acquisition [acquired on 10-1-1985]	Rs. 10,000		
Indexed cost of acquisition [Vide 2nd proviso to section 48]: Rs. 10,000 (cost of acquisition) × 463[12] (Cost Inflation Index of the financial year of sale i.e., 2003-04) ÷ 125[12] (Cost Inflation Index of the financial year of acquisition i.e., 1984-85) = Rs. 37,040	Rs. 37,040	Rs. 25,000	
Gross total income inclusive of long-term capital gains			Rs. 1,35,000
Less: Long-term capital gains			Rs. 25,000
Gross total income as reduced by long-term capital gains			Rs. 1,10,000
Less: Deduction under Chapter VI-A:			
Donations to approved charities Rs. 6,000:			
Deduction u/s. 80G @ 50% of approved charities Rs. 6,000			Rs. 3,000
Taxable income as reduced by long-term capital gains		(A)	Rs. 1,07,000
Add: Long-term capital gains		(B)	Rs. 25,000
Taxable income inclusive of long-term capital gains		(C)	Rs. 1,32,000
Income-tax on Rs. 1,07,000 taxable income as reduced by long-term capital gains as per (A) [Refer page 245]	Rs. 10,400		
Less: Rebate of (deduction from) income-tax u/s. 88[13]:			
Deposits in 10-year Post Office C.T.D. A/c. Rs. 6,000:			
Deduction @ 20% of Rs. 6,000 from the amount of income-tax chargeable	Rs. 1,200		
Income-tax payable on Rs. 1,07,000 taxable income as reduced by long-term capital gains [Refer (A)]	Rs. 9,200	Rs. 9,200	
Add: Income tax @ 20% on long-term capital gains Rs. 25,000 u/s. 112(1)(a)(ii)[14] [Refer (B)]		Rs. 5,000	
Income-tax[11] payable on taxable income inclusive of long-term capital gains Rs. 1,32,000 [Refer (C)] for assessment year 2004-05			**Rs. 14,200**

9. From assessment year 2003-04 and onwards, exclusion u/s. 10(3) is not available as the said section is omitted w.e.f. 1-4-2003.

10. Flat rate of income-tax @ 30% [vide section 115BB] *plus* surcharge on income-tax is 'nil' as the total (taxable) income does not exceed Rs. 8,50,000 [vide section 2(3) of the Finance (No. 2) Act, 2004].

11. Surcharge on income-tax is not payable as the taxable income does not exceed Rs. 8,50,000.

12. For Notification on Cost Inflation Index, refer page 145/cover page 3.

13. Refer footnote No. 3 on page 293.

14. Refer footnote No. 7 on page 294.

ASSESSMENT YEAR 2004-05:

(7) Mr. A's taxable income being annual salary, dearness allowance, taxable perquisites and other taxable benefits from the employer for the financial year ending on 31-3-2004 is Rs. 1,55,800. He owns a motor car which is used for the purposes of his employment. He has paid tuition fees for education of two children in school Rs. 15,000 [Rs. 10,000 + Rs. 5,000] and his contribution to provident fund is Rs. 12,300.

Annual salary		Rs. 1,55,800
Less: (a) Standard deduction under section 16(i): As the salary does not exceed Rs. 5,00,000, standard deduction u/s. 16(i)(A) is @ 40% of Rs. 1,55,800 i.e., Rs. 62,320, subject to maximum deduction of Rs. 30,000	Rs. 30,000	
(b) Deduction under section 16(iii) for profession tax: Profession tax deducted, say @ Rs. 200 p.m. × 12 months	Rs. 2,400	Rs. 32,400
Taxable income		Rs. 1,23,400
Income-tax on taxable income of Rs. 1,23,400 (Refer pp. 244-245)		Rs. 13,680
Less: Rebate of (deduction from) income tax u/s. 88[15]: Tuition fees for 2 children & contribution to provident fund Rs. 27,300 [Rs. 15,000 + Rs. 12,300]: Deduction @ 20% of Rs. 27,300 from the amount of income-tax chargeable		Rs. 5,460
Income-tax[16] payable on taxable income of Rs. 1,23,400 for assessment year 2004-05.		Rs. 8,220

Assuming that the tax deducted at source is Rs. 8,100, the employee is required to pay self-assessment tax in an amount of Rs. 120 before the submission of return of income for the assessment year 2004-05.

		ASSESSMENT YEAR	
		2004-05	2005-06
(8)	The gross total income of Mr. A (aged 45 years) consists of the following sources of income:		
1.	Business income	Rs. 1,68,000	Rs. 1,49,000
2.	Property income	Rs. 19,000	Rs. 23,000
3.	Capital gains:		
	(a) Short-term in respect of land [arose on 12th March, 2004/2005]	Rs. 10,000	Rs. 10,000
	(b) Long-term in respect of land [arose on 12th March, 2004/2005] [computed in the manner explained in *Example* No. (6) on page 295], say	Rs. [17]20,000	Rs. [17]60,000
4.	Dividend income from domestic companies referred to in section 115-O Rs. 25,000/Rs. 20,000	Rs. *NIL	Rs. *NIL
5.	Income in respect of units: (a) of Mutual Fund referred to in section 10(23D); (b) from the Administrator of the specified undertaking/specified company, Rs. 5,000/Rs. 10,000	Rs. †NIL	Rs. †NIL
6.	Interest on security of Central/State Government	Rs. 16,000	Rs. 16,000
7.	Interest on deposits with companies	Rs. 30,000	Rs. 25,000
	Gross total income inclusive of long-term capital gains (A)	Rs. 2,63,000	Rs. 2,83,000
	Less: Long-term *(and not short-term)* capital gains [Refer 3(b)] (B)	Rs. 20,000	Rs. 60,000
	Gross total income as reduced by long-term capital gains (C)	Rs. 2,43,000	Rs. 2,23,000
	He makes the following payments which entitles him to claim deductions/rebate under Chapter VI-A/VIII-A of the Income-tax Act:		
1.	Medical insurance premia referred to in section 80D on health of his wife	Rs. 8,000	Rs. 8,000
2.	Donations to approved charities	Rs. 25,000	Rs. 25,000
3.	*(a)* Life insurance premia paid Rs. 23,000		
	(b) Subscription to Public Provident Fund Rs. 30,000		
	(c) Tuition fees for education of 2 children in school (Rs. 9,000 + Rs. 11,000) Rs. 20,000		
	(d) Subscription to notified debentures referred to in section 88(2)(xvi) Rs. 30,000	Rs. 1,03,000	Rs. 1,03,000

** Dividend income of Rs. 25,000 (for assessment year 2004-05)/Rs. 20,000 (for assessment year 2005-06) is to be excluded u/s. 10(34).*

† Income in respect of units of Mutual Fund referred to in section 10(23D) and from the Administrator of the specified undertaking/specified company, Rs. 5000/Rs. 10,000, is to be excluded u/s. 10(35).

15. Refer footnote No. 3 on page 293.

16. Surcharge on income-tax is not payable as the taxable income does not exceed Rs. 8,50,000.

17. Refer footnote No. 7 on page 294.

				ASSESSMENT YEAR	
				2004-05	2005-06
COMPUTATION OF TAXABLE INCOME:					
Gross total income as reduced by long-term capital gains [Refer (C) on page 296]				Rs. 2,43,000	Rs. 2,23,000
Less: Deductions under Chapter VI-A:					
ASSESSMENT YEARS 2004-05 & 2005-06:					
(1) Medical insurance premia paid	Rs. 8,000				
Deduction u/s. 80D: As the premia does not exceed Rs. 10,000, 100% of premia paid Rs. 8,000		Rs. 8,000			
(2) Income in respect of interest on security of Central/ State Government Rs. 16,000/Rs. 16,000					
Deduction u/s. 80L:					
(a) Maximum deduction u/s. 80L(1) restricted to	Rs. 12,000				
(b) Additional deduction under proviso to section 80L(1) in respect of interest on security of Central/State Government	Rs. 3,000	Rs. 15,000		Rs. 23,000	Rs. 23,000
Base for deduction u/s. 80G				Rs. 2,20,000	Rs. 2,00,000
(3) Donations to approved charities	Rs. 25,000				
Deduction u/s. 80G:					
Donations should not exceed 10% of the gross total income as reduced by deductions permissible under Chapter VI-A and also long-term capital gains:					
Donation is to be restricted to:					
(a) Assessment year 2004-05: Rs. 22,000 being 10% of Rs. 2,20,000. Donations qualifying for deduction	Rs. 22,000				
50% of the qualifying amount Rs. 22,000				Rs. 11,000	—
(b) Assessment year 2005-06: Rs. 20,000 being 10% of Rs. 2,00,000. Donations qualifying for deduction	Rs. 20,000				
50% of the qualifying amount Rs. 20,000				—	Rs. 10,000
Taxable income as reduced by long-term capital gains			(D)	Rs. 2,09,000	Rs. 1,90,000
Add: Long-term capital gains [Refer (B) on page 296]			(E)	Rs. 20,000	Rs. 60,000
Taxable income inclusive of long-term capital gains			(F)	Rs. 2,29,000	Rs. 2,50,000
TAX COMPUTATION:					
Income-tax on taxable income as reduced by long-term capital gains Rs. 2,09,000 [Refer (D)] for assessment year 2004-05 (Refer page 246)				Rs. 36,700	Rs. —
Income-tax on taxable income as reduced by long-term capital gains Rs. 1,90,000 [Refer (D)] for assessment year 2005-06 (Refer page 302)				Rs. —	Rs. 31,000
Less: Rebate of (deduction from) income-tax u/s. 88[18]: In respect of life insurance premia, etc. (Refer 3 on page 296) Rs. 1,03,000: Deduction @ 15% of Rs. 1,00,000 u/s. 88(1)(ii) [and not of Rs. 1,03,000 vide section 88(5)] i.e., 15% of Rs. 1,00,000				Rs.[19]15,000	Rs.[19]15,000
Income-tax on taxable income as reduced by long-term capital gains [Refer (D)]				Rs. 21,700	Rs. 16,000
Add: Income-tax @ 20% on long-term capital gains u/s. 112(1)(a)(ii)[20]: Income-tax @ 20% on Rs. 20,000 [Refer (E)]/Rs. 60,000 [Refer (E)]				Rs. 4,000	Rs. 12,000
				Rs. 25,700	Rs. 28,000
Add: Additional surcharge (i.e., Education Cess) @ 2% on Rs. 28,000 for assessment year 2005-06				Rs. —	Rs. 560
INCOME-TAX[21]/ADVANCE TAX PAYABLE[21] ON TAXABLE INCOME [Refer (F)]				Rs. 25,700	Rs. 28,560

18. Refer footnote No. 3 on page 293.

19. In the above *Example*, if subscription to notified debentures referred to in section 88(2)(xvi) Rs. 30,000 is not made, then rebate of (deduction from) income-tax u/s. 88(1)(ii) will be at 15% of Rs. 70,000 [and not of Rs. 73,000 vide 1st proviso to section 88(5)] i.e., 15% of Rs. 70,000 is Rs. 10,500.

20. Refer footnote No. 7 on page 294.

21. Surcharge on income-tax is not payable for assessment year 2004-05/2005-06, as the taxable income does not exceed Rs. 8,50,000.

TABLE B1

INCOME-TAX** & ADDL. SURCHARGE†
FOR RESIDENT INDIVIDUALS ONLY
WHERE THE TAXABLE INCOME IS BETWEEN:
Rs. 1,00,000 & Rs. 1,11,240
ASSESSMENT YEAR
2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX"* payable during the financial year ending 31-3-2005, and

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 20%† ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of I.T.†

Taxable Income Rs.	I.T. Rs.	Rebate u/s. 88D(2) Rs.	I.T. after rebate u/s. 88D(2) Rs.	Addl. S.C. (Edu. Cess) Rs. P.	Total Rs. P.	Taxable Income Rs.	I.T. Rs.	Rebate u/s. 88D(2) Rs.	I.T. after rebate u/s. 88D(2) Rs.	Addl. S.C. (Edu. Cess) Rs. P.	Total Rs. P.
100000	9000	*9000	—	—	—	107000	10400	3400	7000	140.00	7140.00
100010	9002	8992	10	0.20	10.20	107500	10500	3000	7500	150.00	7650.00
100500	9100	8600	500	10.00	510.00	108000	10600	2600	8000	160.00	8160.00
101000	9200	8200	1000	20.00	1020.00	108500	10700	2200	8500	170.00	8670.00
101500	9300	7800	1500	30.00	1530.00	109000	10800	1800	9000	180.00	9180.00
102000	9400	7400	2000	40.00	2040.00	109500	10900	1400	9500	190.00	9690.00
102500	9500	7000	2500	50.00	2550.00	110000	11000	1000	10000	200.00	10200.00
103000	9600	6600	3000	60.00	3060.00	110500	11100	600	10500	210.00	10710.00
103500	9700	6200	3500	70.00	3570.00	111000	11200	200	11000	220.00	11220.00
104000	9800	5800	4000	80.00	4080.00	111100	11220	120	11100	222.00	11322.00
104500	9900	5400	4500	90.00	4590.00	111200	11240	40	11200	224.00	11424.00
105000	10000	5000	5000	100.00	5100.00	111210	11242	32	11210	224.20	11434.20
105500	10100	4600	5500	110.00	5610.00	111220	11244	24	11220	224.40	11444.40
106000	10200	4200	6000	120.00	6120.00	111230	11246	16	11230	224.60	11454.60
106500	10300	3800	6500	130.00	6630.00	111240	11248	8	11240	224.80	11464.80

Note : Above table is computed after availing rebate u/s. 88D(2) to arrive at the I. T. payable on taxable income between Rs. 1,00.010 and Rs. 1,11,240. For the taxable income between Rs. 1,00,000 & Rs. 1,11,200, for each Rs. 10 to Rs. 490, please add the said amount in the column No. 4 & 10 in relation to taxable income in column No. 1 & 7, and add Addl. S. C. (i.e., Education Cess) @ 2% of I.T. so computed to arrive at total of I.T. & Addl. S.C.

EXAMLPLE : Mr. A, who is resident in India, his taxable income is Rs. 1,07,200, the tax to be computed with reference to the above table read with note is as under:

I.T. as per column No. 10 on Rs. 1,07,000 taxable income (Refer column No. 7) is	Rs.	7,000
Add: Income exceeding Rs. 1,07,000 (i.e. Rs. 1,07,200 *less* Rs. 1,07,000	Rs.	200
Income-tax payable after rebate u/s. 88D(2)	Rs.	7,200
Add : Addl. S.C. (i.e., Education Cess) @ 2% of I.T. Rs. 7,200	Rs.	144
Total of I.T. & Addl. S.C.	Rs.	7,344

Note: Advance tax payable on current income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For advance tax payable on long-term capital gains, refer pp. 162-165. Advance tax so computed is to be increased by Addl. S.C. @ 2% I.T.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at, rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B, 88C & 88D to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B, 88C & 88D refer pp. 237-242. Also refer para 9.2 on page 339.

* Rebate is as per section 88D(1).

For examples, refer pp. 293-297. The relevant table for the assessment year 2004-05 is given on pp. 244-245.

TABLE A

INCOME-TAX** & ADDL. SURCHARGE†
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 50,000 & Rs. 60,000

ASSESSMENT YEAR

2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX"* payable during the financial year ending 31-3-2005, and

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 10%† ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of I.T.†

Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.
10	1	0.02	1.02	**40**	4	0.08	4.08	**60**	6	0.12	6.12	**80**	8	0.16	8.16
20	2	0.04	2.04	**50**	5	0.10	5.10	**70**	7	0.14	7.14	**90**	9	0.18	9.18
30	3	0.06	3.06	**60**	6	0.12	6.12	**80**	8	0.16	8.16	**100**	10	0.20	10.20

† In the case of a resident individual, whose total (taxable) income does not exceed Rs. 1,00,000, is entitled to a deduction u/s. 88D(1) [Refer para 9.2 on page 339] of the entire amount of income-tax payable on such income and as such income-tax payable will be Rs. 'Nil'. As income-tax payable is Rs. 'Nil', additional S.C. (i.e., Education Cess) @ 2% of I.T. also is not payable.

However, in the case of an assessee other than a resident individual, whose total (taxable) income exceeds Rs. 50,000, income-tax as computed above is to be increased by additional S.C. (i.e., Education Cess) @ 2% of I.T. as mentioned in the above table.

50000	—	—	—	**51500**	150	3.00	153.00	**54000**	400	8.00	408.00	**57000**	700	14.00	714.00
50100	10	0.20	10.20	**51600**	160	3.20	163.20	**54200**	420	8.40	428.40	**57200**	720	14.40	734.40
50200	20	0.40	20.40	**51700**	170	3.40	173.40	**54400**	440	8.80	448.80	**57400**	740	14.80	754.80
50300	30	0.60	30.60	**51800**	180	3.60	183.60	**54600**	460	9.20	469.20	**57600**	760	15.20	775.20
50400	40	0.80	40.80	**51900**	190	3.80	193.80	**54800**	480	9.60	489.60	**57800**	780	15.60	795.60
50500	50	1.00	51.00	**52000**	200	4.00	204.00	**55000**	500	10.00	510.00	**58000**	800	16.00	816.00
50600	60	1.20	61.20	**52200**	220	4.40	224.40	**55200**	520	10.40	530.40	**58200**	820	16.40	836.40
50700	70	1.40	71.40	**52400**	240	4.80	244.80	**55400**	540	10.80	550.80	**58400**	840	16.80	856.80
50800	80	1.60	81.60	**52600**	260	5.20	265.20	**55600**	560	11.20	571.20	**58600**	860	17.20	877.20
50900	90	1.80	91.80	**52800**	280	5.60	285.60	**55800**	580	11.60	591.60	**58800**	880	17.60	897.60
51000	100	2.00	102.00	**53000**	300	6.00	306.00	**56000**	600	12.00	612.00	**59000**	900	18.00	918.00
51100	110	2.20	112.20	**53200**	320	6.40	326.40	**56200**	620	12.40	632.40	**59200**	920	18.40	938.40
51200	120	2.40	122.40	**53400**	340	6.80	346.80	**56400**	640	12.80	652.80	**59400**	940	18.80	958.80
51300	130	2.60	132.60	**53600**	360	7.20	367.20	**56600**	660	13.20	673.20	**59600**	960	19.20	979.20
51400	140	2.80	142.80	**53800**	380	7.60	387.60	**56800**	680	13.60	693.60	**59800**	980	19.60	999.60
51500	150	3.00	153.00	**54000**	400	8.00	408.00	**57000**	700	14.00	714.00	**60000**	1000	20.00	1020.00

Note: Advance tax payable on current income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For advance tax payable on long-term capital gains, refer pp. 162-165. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at, rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B, 88C & 88D(1) to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B, 88C & 88D(1) refer pp. 237-242. Also refer para 9.2 on page 339.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs.

For examples, refer pp. 293-297. The relevant table for the assessment year 2004-05 is given on page 243.

TABLE B

INCOME-TAX** & ADDL. SURCHARGE†
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 60,000 & Rs. 1,50,000

ASSESSMENT YEAR

2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX" payable during the financial year ending 31-3-2005, and*

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 20%† ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of I.T.†

Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	TOTAL† Rs. P.
10	2	0.04	2.04	**40**	8	0.16	8.16	**70**	14	0.28	14.28	**100**	20	0.40	20.40
20	4	0.08	4.08	**50**	10	0.20	10.20	**80**	16	0.32	16.32	**200**	40	0.80	40.80
30	6	0.12	6.12	**60**	12	0.24	12.24	**90**	18	0.36	18.36	**300**	60	1.20	61.20
40	8	0.16	8.16	**70**	14	0.28	14.28	**100**	20	0.40	20.40	**400**	80	1.60	81.60

† In the case of a resident individual, whose total (taxable) income does not exceed Rs. 1,00,000, is entitled to a deduction u/s. 88D(1) [Refer para 9.2 on page 339] of the entire amount of income-tax payable on such income and as such income-tax payable will be Rs. 'Nil'. As income-tax payable is Rs. 'Nil', additional S.C. (i.e., Education Cess) @ 2% of I.T. also is not payable.

In case of such a resident individual, where the total (taxable) income is between Rs. 1,00,010 and Rs. 1,11,240, he is entitled to rebate of (deduction from) income-tax u/s. 88D(2). The relevant table is given on page 298. For the taxable income of Rs. 1,11,250 or more, please refer tables given on pp. 301-305.

However, in the case of an assessee other than a resident individual, whose total (taxable) income exceeds Rs. 50,000, income-tax as computed above is to be increased by additional S.C. (i.e., Education Cess) @ 2% of I.T. as mentioned in the above table.

60000	1000	20	1020	**67000**	2400	48	2448	**74000**	3800	76	3876	**81000**	5200	104	5304
60500	1100	22	1122	**67500**	2500	50	2550	**74500**	3900	78	3978	**81500**	5300	106	5406
61000	1200	24	1224	**68000**	2600	52	2652	**75000**	4000	80	4080	**82000**	5400	108	5508
61500	1300	26	1326	**68500**	2700	54	2754	**75500**	4100	82	4182	**82500**	5500	110	5610
62000	1400	28	1428	**69000**	2800	56	2856	**76000**	4200	84	4284	**83000**	5600	112	5712
62500	1500	30	1530	**69500**	2900	58	2958	**76500**	4300	86	4386	**83500**	5700	114	5814
63000	1600	32	1632	**70000**	3000	60	3060	**77000**	4400	88	4488	**84000**	5800	116	5916
63500	1700	34	1734	**70500**	3100	62	3162	**77500**	4500	90	4590	**84500**	5900	118	6018
64000	1800	36	1836	**71000**	3200	64	3264	**78000**	4600	92	4692	**85000**	6000	120	6120
64500	1900	38	1938	**71500**	3300	66	3366	**78500**	4700	94	4794	**85500**	6100	122	6222
65000	2000	40	2040	**72000**	3400	68	3468	**79000**	4800	96	4896	**86000**	6200	124	6324
65500	2100	42	2142	**72500**	3500	70	3570	**79500**	4900	98	4998	**86500**	6300	126	6426
66000	2200	44	2244	**73000**	3600	72	3672	**80000**	5000	100	5100	**87000**	6400	128	6528
66500	2300	46	2346	**73500**	3700	74	3774	**80500**	5100	102	5202	**87500**	6500	130	6630
67000	2400	48	2448	**74000**	3800	76	3876	**81000**	5200	104	5304	**88000**	6600	132	6732

Note: Advance tax payable on current income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For advance tax payable on long-term capital gains, refer pp. 162-165. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at, rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B, 88C & 88D to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B, 88C & 88D refer pp. 237-242. Also refer para 9.2 on page 339.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs.

For examples, refer pp. 293-297. The relevant table for the assessment year 2004-05 is given on page 244-245.

TABLE B — *(Contd.)*

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs.	TOTAL† Rs.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs.	TOTAL† Rs.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs.	TOTAL† Rs.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS)† Rs.	TOTAL† Rs.
88000	6600	132	6732	**103500**	9700	194	9894	**119000**	12800	256	13056	**134500**	15900	318	16218
88500	6700	134	6834	**104000**	9800	196	9996	**119500**	12900	258	13158	**135000**	16000	320	16320
89000	6800	136	6936	**104500**	9900	198	10098	**120000**	13000	260	13260	**135500**	16100	322	16422
89500	6900	138	7038	**105000**	10000	200	10200	**120500**	13100	262	13362	**136000**	16200	324	16524
90000	7000	140	7140	**105500**	10100	202	10302	**121000**	13200	264	13464	**136500**	16300	326	16626
90500	7100	142	7242	**106000**	10200	204	10404	**121500**	13300	266	13566	**137000**	16400	328	16728
91000	7200	144	7344	**106500**	10300	206	10506	**122000**	13400	268	13668	**137500**	16500	330	16830
91500	7300	146	7446	**107000**	10400	208	10608	**122500**	13500	270	13770	**138000**	16600	332	16932
92000	7400	148	7548	**107500**	10500	210	10710	**123000**	13600	272	13872	**138500**	16700	334	17034
92500	7500	150	7650	**108000**	10600	212	10812	**123500**	13700	274	13974	**139000**	16800	336	17136
93000	7600	152	7752	**108500**	10700	214	10914	**124000**	13800	276	14076	**139500**	16900	338	17238
93500	7700	154	7854	**109000**	10800	216	11016	**124500**	13900	278	14178	**140000**	17000	340	17340
94000	7800	156	7956	**109500**	10900	218	11118	**125000**	14000	280	14280	**140500**	17100	342	17442
94500	7900	158	8058	**110000**	11000	220	11220	**125500**	14100	282	14382	**141000**	17200	344	17544
95000	8000	160	8160	**110500**	11100	222	11322	**126000**	14200	284	14484	**141500**	17300	346	17646
95500	8100	162	8262	**111000**	11200	224	11424	**126500**	14300	286	14586	**142000**	17400	348	17748
96000	8200	164	8364	**111500**	11300	226	11526	**127000**	14400	288	14688	**142500**	17500	350	17850
96500	8300	166	8466	**112000**	11400	228	11628	**127500**	14500	290	14790	**143000**	17600	352	17952
97000	8400	168	8568	**112500**	11500	230	11730	**128000**	14600	292	14892	**143500**	17700	354	18054
97500	8500	170	8670	**113000**	11600	232	11832	**128500**	14700	294	14994	**144000**	17800	356	18156
98000	8600	172	8772	**113500**	11700	234	11934	**129000**	14800	296	15096	**144500**	17900	358	18258
98500	8700	174	8874	**114000**	11800	236	12036	**129500**	14900	298	15198	**145000**	18000	360	18360
99000	8800	176	8976	**114500**	11900	238	12138	**130000**	15000	300	15300	**145500**	18100	362	18462
99500	8900	178	9078	**115000**	12000	240	12240	**130500**	15100	302	15402	**146000**	18200	364	18564
100000	9000	180	9180	**115500**	12100	242	12342	**131000**	15200	304	15504	**146500**	18300	366	18666
100500	9100	182	9282	**116000**	12200	244	12444	**131500**	15300	306	15606	**147000**	18400	368	18768
101000	9200	184	9384	**116500**	12300	246	12546	**132000**	15400	308	15708	**147500**	18500	370	18870
101500	9300	186	9486	**117000**	12400	248	12648	**132500**	15500	310	15810	**148000**	18600	372	18972
102000	9400	188	9588	**117500**	12500	250	12750	**133000**	15600	312	15912	**148500**	18700	374	19074
102500	9500	190	9690	**118000**	12600	252	12852	**133500**	15700	314	16014	**149000**	18800	376	19176
103000	9600	192	9792	**118500**	12700	254	12954	**134000**	15800	316	16116	**149500**	18900	378	19278
103500	9700	194	9894	**119000**	12800	256	13056	**134500**	15900	318	16218	**150000**	19000	380	19380

† Refer † marked note on facing page.

TABLE C

INCOME-TAX** & ADDL. SURCHARGE
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,50,000 & Rs. 8,50,000

ASSESSMENT YEAR

2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX"* payable during the financial year ending 31-3-2005, and

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 30%† ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of I.T.

Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.	Taxable Income Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs. P.	TOTAL Rs. P.
10	3	0.06	3.06	**70**	21	0.42	21.42	**300**	90	1.80	91.80	**800**	240	4.80	244.80
20	6	0.12	6.12	**80**	24	0.48	24.48	**400**	120	2.40	122.40	**900**	270	5.40	275.40
30	9	0.18	9.18	**90**	27	0.54	27.54	**500**	150	3.00	153.00	**1000**	300	6.00	306.00
40	12	0.24	12.24	**100**	30	0.60	30.60	**600**	180	3.60	183.60	**2000**	600	12.00	612.00
50	15	0.30	15.30	**200**	60	1.20	61.20	**700**	210	4.20	214.20	**3000**	900	18.00	918.00
60	18	0.36	18.36	**300**	90	1.80	91.80	**800**	240	4.80	244.80	**4000**	1200	24.00	1224.00
150000	19000	380	19380	**167000**	24100	482	24582	**184000**	29200	584	29784	**201000**	34300	686	34986
151000	19300	386	19686	**168000**	24400	488	24888	**185000**	29500	590	30090	**202000**	34600	692	35292
152000	19600	392	19992	**169000**	24700	494	25194	**186000**	29800	596	30396	**203000**	34900	698	35598
153000	19900	398	20298	**170000**	25000	500	25500	**187000**	30100	602	30702	**204000**	35200	704	35904
154000	20200	404	20604	**171000**	25300	506	25806	**188000**	30400	608	31008	**205000**	35500	710	36210
155000	20500	410	20910	**172000**	25600	512	26112	**189000**	30700	614	31314	**206000**	35800	716	36516
156000	20800	416	21216	**173000**	25900	518	26418	**190000**	31000	620	31620	**207000**	36100	722	36822
157000	21100	422	21522	**174000**	26200	524	26724	**191000**	31300	626	31926	**208000**	36400	728	37128
158000	21400	428	21828	**175000**	26500	530	27030	**192000**	31600	632	32232	**209000**	36700	734	37434
159000	21700	434	22134	**176000**	26800	536	27336	**193000**	31900	638	32538	**210000**	37000	740	37740
160000	22000	440	22440	**177000**	27100	542	27642	**194000**	32200	644	32844	**211000**	37300	746	38046
161000	22300	446	22746	**178000**	27400	548	27948	**195000**	32500	650	33150	**212000**	37600	752	38352
162000	22600	452	23052	**179000**	27700	554	28254	**196000**	32800	656	33456	**213000**	37900	758	38658
163000	22900	458	23358	**180000**	28000	560	28560	**197000**	33100	662	33762	**214000**	38200	764	38964
164000	23200	464	23664	**181000**	28300	566	28866	**198000**	33400	668	34068	**215000**	38500	770	39270
165000	23500	470	23970	**182000**	28600	572	29172	**199000**	33700	674	34374	**216000**	38800	776	39576
166000	23800	476	24276	**183000**	28900	578	29478	**200000**	34000	680	34680	**217000**	39100	782	39882

Note: Advance tax payable on current income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For advance tax payable on long-term capital gains, refer pp. 162-165. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at, rebates of (deductions from) income-tax is to be allowed u/s. 88, 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88, 88B & 88C refer pp. 237-242.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs.

For examples, refer pp. 293-297. The relevant table for the assessment year 2004-05 is given on page 246-247.

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000**.

TABLE C — *(Contd.)*

Before you proceed to refer this table, please refer footnote marked ** on facing page.

Taxable Salary Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs.	TOTAL Rs.	Taxable Salary Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs.	TOTAL Rs.	Taxable Salary Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs.	TOTAL Rs.	Taxable Salary Rs.	I.T.† Rs.	ADDL. S.C. (EDU. CESS) Rs.	TOTAL Rs.
217000	39100	782	39882	**360000**	82000	1640	83640	**525000**	131500	2630	134130	**690000**	181000	3620	184620
218000	39400	788	40188	**365000**	83500	1670	85170	**530000**	133000	2660	135660	**695000**	182500	3650	186150
219000	39700	794	40494	**370000**	85000	1700	86700	**535000**	134500	2690	137190	**700000**	184000	3680	187680
220000	40000	800	40800	**375000**	86500	1730	88230	**540000**	136000	2720	138720	**705000**	185500	3710	189210
222000	40600	812	41412	**380000**	88000	1760	89760	**545000**	137500	2750	140250	**710000**	187000	3740	190740
224000	41200	824	42024	**385000**	89500	1790	91290	**550000**	139000	2780	141780	**715000**	188500	3770	192270
225000	41500	830	42330	**390000**	91000	1820	92820	**555000**	140500	2810	143310	**720000**	190000	3800	193800
230000	43000	860	43860	**395000**	92500	1850	94350	**560000**	142000	2840	144840	**725000**	191500	3830	195330
235000	44500	890	45390	**400000**	94000	1880	95880	**565000**	143500	2870	146370	**730000**	193000	3860	196860
240000	46000	920	46920	**405000**	95500	1910	97410	**570000**	145000	2900	147900	**735000**	194500	3890	198390
245000	47500	950	48450	**410000**	97000	1940	98940	**575000**	146500	2930	149430	**740000**	196000	3920	199920
250000	49000	980	49980	**415000**	98500	1970	100470	**580000**	148000	2960	150960	**745000**	197500	3950	201450
255000	50500	1010	51510	**420000**	100000	2000	102000	**585000**	149500	2990	152490	**750000**	199000	3980	202980
260000	52000	1040	53040	**425000**	101500	2030	103530	**590000**	151000	3020	154020	**755000**	200500	4010	204510
265000	53500	1070	54570	**430000**	103000	2060	105060	**595000**	152500	3050	155550	**760000**	202000	4040	206040
270000	55000	1100	56100	**435000**	104500	2090	106590	**600000**	154000	3080	157080	**765000**	203500	4070	207570
275000	56500	1130	57630	**440000**	106000	2120	108120	**605000**	155500	3110	158610	**770000**	205000	4100	209100
280000	58000	1160	59160	**445000**	107500	2150	109650	**610000**	157000	3140	160140	**775000**	206500	4130	210630
285000	59500	1190	60690	**450000**	109000	2180	111180	**615000**	158500	3170	161670	**780000**	208000	4160	212160
290000	61000	1220	62220	**455000**	110500	2210	112710	**620000**	160000	3200	163200	**785000**	209500	4190	213690
295000	62500	1250	63750	**460000**	112000	2240	114240	**625000**	161500	3230	164730	**790000**	211000	4220	215220
300000	64000	1280	65280	**465000**	113500	2270	115770	**630000**	163000	3260	166260	**795000**	212500	4250	216750
305000	65500	1310	66810	**470000**	115000	2300	117300	**635000**	164500	3290	167790	**800000**	214000	4280	218280
310000	67000	1340	68340	**475000**	116500	2330	118830	**640000**	166000	3320	169320	**805000**	215500	4310	219810
315000	68500	1370	69870	**480000**	118000	2360	120360	**645000**	167500	3350	170850	**810000**	217000	4340	221340
320000	70000	1400	71400	**485000**	119500	2390	121890	**650000**	169000	3380	172380	**815000**	218500	4370	222870
325000	71500	1430	72930	**490000**	121000	2420	123420	**655000**	170500	3410	173910	**820000**	220000	4400	224400
330000	73000	1460	74460	**495000**	122500	2450	124950	**660000**	172000	3440	175440	**825000**	221500	4430	225930
335000	74500	1490	75990	**500000**	124000	2480	126480	**665000**	173500	3470	176970	**830000**	223000	4460	227460
340000	76000	1520	77520	**505000**	125500	2510	128010	**670000**	175000	3500	178500	**835000**	224500	4490	228990
345000	77500	1550	79050	**510000**	127000	2540	129540	**675000**	176500	3530	180030	**840000**	226000	4520	230520
350000	79000	1580	80580	**515000**	128500	2570	131070	**680000**	178000	3560	181560	**845000**	227500	4550	232050
355000	80500	1610	82110	**520000**	130000	2600	132600	**685000**	179500	3590	183090	**850000**	229000	4580	233580

† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 8,50,000**.

TABLE D

INCOME-TAX**, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 8,50,000 & Rs. 8,84,170

ASSESSMENT YEAR

2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX" payable during the financial year ending 31-3-2005, and*

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 30% SURCHARGE ON INCOME-TAX: ON THE BASIS OF MARGINAL RELIEF†

ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of sub-total of I.T. & S.C.

Taxable Income Rs.	I.T. Rs.	S.C.† Rs.	Sub-total of I.T. & S.C.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	Total of I. T., S.C. & ADDL. S.C.† Rs. P.	**Taxable Income** **Rs.**	I.T. Rs.	S.C.† Rs.	Sub-total of I.T. & S.C.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	Total of I. T., S.C. & ADDL. S.C.† Rs. P.
10	3	7	10	0.20	10.20	**100**	30	70	100	2.00	102.00
20	6	14	20	0.40	20.40	**200**	60	140	200	4.00	204.00
30	9	21	30	0.60	30.60	**300**	90	210	300	6.00	306.00
40	12	28	40	0.80	40.80	**400**	120	280	400	8.00	408.00
50	15	35	50	1.00	51.00	**500**	150	350	500	10.00	510.00
60	18	42	60	1.20	61.20	**600**	180	420	600	12.00	612.00
70	21	49	70	1.40	71.40	**700**	210	490	700	14.00	714.00
80	24	56	80	1.60	81.60	**800**	240	560	800	16.00	816.00
90	27	63	90	1.80	91.80	**900**	270	630	900	18.00	918.00
100	30	70	100	2.00	102.00	**1000**	300	700	1000	20.00	1020.00
850000	229000	—	229000	4580	233580	**868000**	234400	12600	247000	4940.00	251940.00
851000	229300	700	230000	4600	234600	**870000**	235000	14000	249000	4980.00	253980.00
852000	229600	1400	231000	4620	235620	**872000**	235600	15400	251000	5020.00	256020.00
854000	230200	2800	233000	4660	237660	**874000**	236200	16800	253000	5060.00	258060.00
856000	230800	4200	235000	4700	239700	**876000**	236800	18200	255000	5100.00	260100.00
858000	231400	5600	237000	4740	241740	**878000**	237400	19600	257000	5140.00	262140.00
860000	232000	7000	239000	4780	243780	**880000**	238000	21000	259000	5180.00	264180.00
862000	232600	8400	241000	4820	245820	**882000**	238600	22400	261000	5220.00	266220.00
864000	233200	9800	243000	4860	247860	**884000**	239200	23800	263000	5260.00	268260.00
866000	233800	11200	245000	4900	249900	**884170**	239251	23919	263170	5263.40	268433.40

Note: Advance tax payable on current income (as reduced by long-term capital gains, if any) is to be computed with reference to above table. For advance tax payable on long-term capital gains, refer pp. 162-165. Advance tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% of I.T. & S.C.

** Income-tax is to be arrived at with reference to table given above, on taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From income-tax so arrived at rebates of (deductions from) income-tax is to be allowed u/s. 88B & 88C to arrive at income-tax payable. For rebates of (deductions from) income-tax allowable u/s. 88B & 88C refer pp. 237-242.

* This table also applies to association of persons, body of individuals, non-residents, etc., etc. In the case of Hindu undivided families, above table is to be referred even in cases where **any member** of such family has independent taxable income **exceeding Rs. 50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs.

For examples, refer pp. 293-297. The relevant tables for the assessment year 2004-05 is given on pp. 248-249.

† **Surcharge at the rate of 10%** on income-tax is payable **where the taxable income exceeds Rs. 8,50,000.** In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance (No. 2) Act, 2004 [Vide proviso to Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2004]. The marginal relief operates upto taxable income between Rs. 8,50,010 & Rs. 8,84,170 [Refer table above]. Even **in the case of a non-resident, surcharge on income-tax is payable where the taxable income exceeds Rs. 8,50,000** [Vide item (i) of Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2004]. In cases, where deduction from income-tax is allowable u/s. 88B & 88C, do not compute surcharge & addl. S.C. and total from these columns.

TABLE E

INCOME-TAX**, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 8,84,180 & Rs. 10,00,000

ASSESSMENT YEAR

2005-06

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:

(1) *"ADVANCE TAX" payable during the financial year ending 31-3-2005, and*

(2) Deduction of income-tax from *"SALARIES"* during the financial year ending 31-3-2005.

SLAB RATE: INCOME-TAX @ 30% SURCHARGE : 10% OF THE INCOME-TAX†

ADDL. SURCHARGE (i.e., EDUCATION CESS): @ 2% of sub-total of I.T. & S.C.

Taxable Income **Rs.**	I.T. Rs.	S.C.† Rs. P	Sub-total of I.T. & S.C.† Rs. P.	ADDL. S.C. (EDU. CESS)† Rs. P.	Total of I. T., S.C. & ADDL. S.C.† Rs. P.	**Taxable Income** **Rs.**	I.T. Rs.	S.C.† Rs.	Sub-total of I.T. & S.C.† Rs.	ADDL. S.C. (EDU. CESS)† Rs. P.	Total of I. T., S.C. & ADDL. S.C.† Rs. P.
10	3	0.30	3.30	0.07	3.37	**300**	90	9	99	1.98	100.98
20	6	0.60	6.60	0.13	6.73	**400**	120	12	132	2.64	134.64
30	9	0.90	9.90	0.20	10.10	**500**	150	15	165	3.30	168.30
40	12	1.20	13.20	0.26	13.46	**600**	180	18	198	3.96	201.96
50	15	1.50	16.50	0.33	16.83	**700**	210	21	231	4.62	235.62
60	18	1.80	19.80	0.40	20.20	**800**	240	24	264	5.28	269.28
70	21	2.10	23.10	0.46	23.56	**900**	270	27	297	5.94	302.94
80	24	2.40	26.40	0.53	26.93	**1000**	300	30	330	6.60	336.60
90	27	2.70	29.70	0.59	30.29	**2000**	600	60	660	13.20	673.20
100	30	3.00	33.00	0.66	33.66	**3000**	900	90	990	19.80	1009.80
200	60	6.00	66.00	1.32	67.32	**4000**	1200	120	1320	26.40	1346.40
884180	239254	23925.40	263179.40	5263.59	268442.99	**940000**	256000	25600	281600	5632	287232
884200	239260	23926.00	263186.00	5263.72	268449.72	**945000**	257500	25750	283250	5665	288915
885000	239500	23950.00	263450.00	5269.00	268719.00	**950000**	259000	25900	284900	5698	290598
890000	241000	24100.00	265100.00	5302.00	270402.00	**955000**	260500	26050	286550	5731	292281
895000	242500	24250.00	266750.00	5335.00	272085.00	**960000**	262000	26200	288200	5764	293964
900000	244000	24400.00	268400.00	5368.00	273768.00	**965000**	263500	26350	289850	5797	295647
905000	245500	24550.00	270050.00	5401.00	275451.00	**970000**	265000	26500	291500	5830	297330
910000	247000	24700.00	271700.00	5434.00	277134.00	**975000**	266500	26650	293150	5863	299013
915000	248500	24850.00	273350.00	5467.00	278817.00	**980000**	268000	26800	294800	5896	300696
920000	250000	25000.00	275000.00	5500.00	280500.00	**985000**	269500	26950	296450	5929	302379
925000	251500	25150.00	276650.00	5533.00	282183.00	**990000**	271000	27100	298100	5962	304062
930000	253000	25300.00	278300.00	5566.00	283866.00	**995000**	272500	27250	299750	5995	305745
935000	254500	25450.00	279950.00	5599.00	285549.00	**1000000**	274000	27400	301400	6028	307428

For Note, **, * & †, refer Note, **, * & † given on facing page

Income-tax, surcharge and addl. surcharge payable over Rs. 10,00,000 taxable income for asst. year 2005-06:

				Income-tax	Surcharge	Sub-total of I.T. & S.C.	Addl. S.C.	Total of I.T., S.C. & Addl. S.C.
For every	Rs.	10,000	. .	3,000.00	300.00	3,300.00	66.00	3,366.00
For every	Rs.	1,000	. .	300.00	30.00	330.00	6.60	336.60
For every	Rs.	100	. .	30.00	3.00	33.00	0.66	33.66
For every	Rs.	10	. .	3.00	0.30	3.30	0.07	3.37

I - T. TABLE
FIRM TAX
A.Y. 2005-06§

INCOME-TAX, S.C. & ADDL. S.C.[1] FOR FIRMS ONLY

ASSESSMENT YEAR 2005-06§

Accounting period: Financial year ending 31-3-2005.

The table given hereunder may be referred for the purposes of:
"ADVANCE TAX" payable during the financial year ending on 31-3-2005.

FLAT RATE: INCOME-TAX @ 35% SURCHARGE: 2.5% OF INCOME-TAX[1]

ADDITIONAL SURCHARGE (i.e., EDUCATION CESS) : @ 2% of I.T. & S.C.[1]

Taxable Income Rs.	I.T. Rs. P.	S.C.[2] Rs. P.	Sub-total of I.T. & S.C.[2] Rs. P.	ADDL. S.C.[2] on I. T. & S.C. Rs. P.	Total[2] Rs. P.	Taxable Income Rs.	I.T. Rs.	S.C.[2] Rs. P.	Sub-total of I.T. & S.C.[2] Rs. P.	ADDL. S.C.[2] on I. T. & S.C. Rs. P.	Total[2] Rs. P.
10	3.50	0.09	3.59	0.07	3.66	**700**	245	6.13	251.13	5.02	256.15
20	7.00	0.18	7.18	0.14	7.32	**800**	280	7.00	287.00	5.74	292.74
30	10.50	0.26	10.76	0.22	10.98	**900**	315	7.88	322.88	6.46	329.34
40	14.00	0.35	14.35	0.29	14.64	**1000**	350	8.75	358.75	7.18	365.93
50	17.50	0.44	17.94	0.36	18.30	**2000**	700	17.50	717.50	14.35	731.85
60	21.00	0.53	21.53	0.43	21.96	**3000**	1050	26.25	1076.25	21.53	1097.78
70	24.50	0.61	25.11	0.50	25.61	**4000**	1400	35.00	1435.00	28.70	1463.70
80	28.00	0.70	28.70	0.57	29.27	**5000**	1750	43.75	1793.75	35.88	1829.63
90	31.50	0.79	32.29	0.65	32.94	**6000**	2100	52.50	2152.50	43.05	2195.55
100	35.00	0.88	35.88	0.72	36.60	**7000**	2450	61.25	2511.25	50.23	2561.48
200	70.00	1.75	71.75	1.44	73.19	**8000**	2800	70.00	2870.00	57.40	2927.40
300	105.00	2.63	107.63	2.15	109.78	**9000**	3150	78.75	3228.75	64.58	3293.33
400	140.00	3.50	143.50	2.87	146.37	**10000**	3500	87.50	3587.50	71.75	3659.25
500	175.00	4.38	179.38	3.59	182.97	**20000**	7000	175.00	7175.00	143.50	7318.50
600	210.00	5.25	215.25	4.31	219.56	**30000**	10500	262.50	10762.50	215.25	10977.75
700	245.00	6.13	251.13	5.02	256.15	**40000**	14000	350.00	14350.00	287.00	14637.00
1000	350	8.75	358.75	7.18	365.93	**500000**	175000	4375.00	179375.00	3587.50	182962.50
10000	3500	87.50	3587.50	71.75	3659.25	**550000**	192500	4812.50	197312.50	3946.25	201258.75
50000	17500	437.50	17937.50	358.75	18296.25	**600000**	210000	5250.00	215250.00	4305.00	219555.00
100000	35000	875.00	35875.00	717.50	36592.50	**650000**	227500	5687.50	233187.50	4663.75	237851.25
150000	52500	1312.50	53812.50	1076.25	54888.75	**700000**	245000	6125.00	251125.00	5022.50	256147.50
200000	70000	1750.00	71750.00	1435.00	73185.00	**750000**	262500	6562.50	269062.50	5381.25	274443.75
250000	87500	2187.50	89687.50	1793.75	91481.25	**800000**	280000	7000.00	287000.00	5740.00	292740.00
300000	105000	2625.00	107625.00	2152.50	109777.50	**850000**	297500	7437.50	304937.50	6098.75	311036.25
350000	122500	3062.50	125562.50	2511.25	128073.75	**900000**	315000	7875.00	322875.00	6457.50	329332.50
400000	140000	3500.00	143500.00	2870.00	146370.00	**950000**	332500	8312.50	340812.50	6816.25	347628.75
450000	157500	3937.50	161437.50	3228.75	164666.25	**1000000**	350000	8750.00	358750.00	7175.00	365925.00

§ Relevant table for assessment year 2004-05 is given on page 251.

1. Surcharge at the rate of 2.5% on income-tax and addl. surcharge at the rate of 2% of I.T. & S.C. is payable on the whole amount of income-tax as no ceiling limit of total (taxable) income is provided in the Finance (No. 2) Act, 2004.

2. Where the total (taxable) income of the firm include long-term *(and not short-term)* capital gains, advance tax on total (taxable) income, as reduced by long-term capital gains, is to be computed with reference to above table. Advance tax on long-term capital gains is to be computed at the flat rate prescribed in section 112(1)(d)(ii). The advance tax payable by the firm, is the sum total of advance tax on total (taxable) income [as reduced by the long-term capital gains], and advance tax on long-term capital gains. The aggregate amount of advance tax so arrived at is to be increased by a surcharge @ 2.5% and addl. S.C. @ 2% of I.T. & S.C. of such advance tax. The resultant sum so arrived at is advance tax payable by the firm.

INCOME TAX , S.C. & ADDL. S.C.[1] FOR PRIVATE AND PUBLIC LIMITED COMPANIES
ASSESSMENT YEAR 2005-06§

Taxable Income[2] Rs.	DOMESTIC COMPANY (Private & Public)				FOREIGN COMPANY							
					Royalties and fees[3]				On the balance, if any, of the total income			
	I.T. @ 35% Rs. P.	S.C. @ 2.5% of I.T.[1] Rs. P.	ADDL. S.C[1] @ 2% of I.T.& S.C. Rs. P.	Total Rs. P.	I.T. @ 50% Rs. P.	S.C. @ 2.5% of I.T.[1] Rs. P.	ADDL. S.C[1] @ 2% of I.T. & S.C. Rs. P.	Total Rs. P.	I.T. @ 40% Rs. P.	S.C. @ 2.5% of I.T.[1] Rs. P.	ADDL. S.C[1] @ 2% of I.T. & S.C. Rs. P.	Total Rs. P.
10	3.50	0.09	0.07	3.66	5	0.13	0.10	5.23	4	0.10	0.08	4.18
20	7.00	0.18	0.14	7.32	10	0.25	0.21	10.46	8	0.20	0.16	8.36
30	10.50	0.26	0.22	10.98	15	0.38	0.31	15.69	12	0.30	0.25	12.55
40	14.00	0.35	0.29	14.64	20	0.50	0.41	20.91	16	0.40	0.33	16.73
50	17.50	0.44	0.36	18.30	25	0.63	0.51	26.14	20	0.50	0.41	20.91
60	21.00	0.53	0.43	21.96	30	0.75	0.62	31.37	24	0.60	0.49	25.09
70	24.50	0.61	0.50	25.61	35	0.88	0.72	36.60	28	0.70	0.57	29.27
80	28.00	0.70	0.57	29.27	40	1.00	0.82	41.82	32	0.80	0.66	33.46
90	31.50	0.79	0.65	32.94	45	1.13	0.92	47.05	36	0.90	0.74	37.64
100	35	0.88	0.72	36.60	50	1.25	1.03	52.28	40	1	0.82	41.82
200	70	1.75	1.44	73.19	100	2.50	2.05	104.55	80	2	1.64	83.64
300	105	2.63	2.15	109.78	150	3.75	3.08	156.83	120	3	2.46	125.46
400	140	3.50	2.87	146.37	200	5.00	4.10	209.10	160	4	3.28	167.28
500	175	4.38	3.59	182.97	250	6.25	5.13	261.38	200	5	4.10	209.10
600	210	5.25	4.31	219.56	300	7.50	6.15	313.65	240	6	4.92	250.92
700	245	6.13	5.02	256.15	350	8.75	7.18	365.93	280	7	5.74	292.74
800	280	7.00	5.74	292.74	400	10.00	8.20	418.20	320	8	6.56	334.56
900	315	7.88	6.46	329.34	450	11.25	9.23	470.48	360	9	7.38	376.38
1,000	350	8.75	7.18	365.93	500	12.50	10.25	522.75	400	10	8.20	418.20
2,000	700	17.50	14.35	731.85	1,000	25.00	20.50	1,045.50	800	20	16.40	836.40
3,000	1,050	26.25	21.53	1,097.78	1,500	37.50	30.75	1,568.25	1,200	30	24.60	1,254.60
4,000	1,400	35.00	28.70	1,463.70	2,000	50.00	41.00	2,091.00	1,600	40	32.80	1,672.80
5,000	1,750	43.75	35.88	1,829.63	2,500	62.50	51.25	2,613.75	2,000	50	41.00	2,091.00
6,000	2,100	52.50	43.05	2,195.55	3,000	75.00	61.50	3,136.50	2,400	60	49.20	2,509.20
7,000	2,450	61.25	50.23	2,561.48	3,500	87.50	71.75	3,659.25	2,800	70	57.40	2,927.40
8,000	2,800	70.00	57.40	2,927.40	4,000	100.00	82.00	4,182.00	3,200	80	65.60	3,345.60
9,000	3,150	78.75	64.58	3,293.33	4,500	112.50	92.25	4,704.75	3,600	90	73.80	3,763.80
10,000	3,500	87.50	71.75	3,659.25	5,000	125	102.50	5,227.50	4,000	100	82	4,182
20,000	7,000	175.00	143.50	7,318.50	10,000	250	205.00	10,455.00	8,000	200	164	8,364
30,000	10,500	262.50	215.25	10,977.75	15,000	375	307.50	15,682.50	12,000	300	246	12,546
40,000	14,000	350.00	287.00	14,637.00	20,000	500	410.00	20,910.00	16,000	400	328	16,728
50,000	17,500	437.50	358.75	18,296.25	25,000	625	512.50	26,137.50	20,000	500	410	20,910
60,000	21,000	525.00	430.50	21,955.50	30,000	750	615.00	31,365.00	24,000	600	492	25,092
70,000	24,500	612.50	502.25	25,614.75	35,000	875	717.50	36,592.50	28,000	700	574	29,274
80,000	28,000	700.00	574.00	29,274.00	40,000	1,000	820.00	41,820.00	32,000	800	656	33,456
90,000	31,500	787.50	645.75	32,933.25	45,000	1,125	922.50	47,047.50	36,000	900	738	37,638
1,00,000	35,000	875	717.50	36,592.50	50,000	1,250	1,025	52,275	40,000	1,000	820	41,820
2,00,000	70,000	1,750	1,435.00	73,185.00	1,00,000	2,500	2,050	1,04,550	80,000	2,000	1,640	83,640
3,00,000	1,05,000	2,625	2,152.50	1,09,777.50	1,50,000	3,750	3,075	1,56,825	1,20,000	3,000	2,460	1,25,460
4,00,000	1,40,000	3,500	2,870.00	1,46,370.00	2,00,000	5,000	4,100	2,09,100	1,60,000	4,000	3,280	1,67,280
5,00,000	1,75,000	4,375	3,587.50	1,82,962.50	2,50,000	6,250	5,125	2,61,375	2,00,000	5,000	4,100	2,09,100
6,00,000	2,10,000	5,250	4,305.00	2,19,555.00	3,00,000	7,500	6,150	3,13,650	2,40,000	6,000	4,920	2,50,920
7,00,000	2,45,000	6,125	5,022.50	2,56,147.50	3,50,000	8,750	7,175	3,65,925	2,80,000	7,000	5,740	2,92,740
8,00,000	2,80,000	7,000	5,740.00	2,92,740.00	4,00,000	10,000	8,200	4,18,200	3,20,000	8,000	6,560	3,34,560
9,00,000	3,15,000	7,875	6,457.50	3,29,332.50	4,50,000	11,250	9,225	4,70,475	3,60,000	9,000	7,380	3,76,380
10,00,000	3,50,000	8,750	7,175	3,65,925	5,00,000	12,500	10,250	5,22,750	4,00,000	10,000	8,200	4,18,200
20,00,000	7,00,000	17,500	14,350	7,31,850	10,00,000	25,000	20,500	10,45,500	8,00,000	20,000	16,400	8,36,400
30,00,000	10,50,000	26,250	21,525	10,97,775	15,00,000	37,500	30,750	15,68,250	12,00,000	30,000	24,600	12,54,600
40,00,000	14,00,000	35,000	28,700	14,63,700	20,00,000	50,000	41,000	20,91,000	16,00,000	40,000	32,800	16,72,800
50,00,000	17,50,000	43,750	35,875	18,29,625	25,00,000	62,500	51,250	26,13,750	20,00,000	50,000	41,000	20,91,000
60,00,000	21,00,000	52,500	43,050	21,95,550	30,00,000	75,000	61,500	31,36,500	24,00,000	60,000	49,200	25,09,200
70,00,000	24,50,000	61,250	50,225	25,61,475	35,00,000	87,500	71,750	36,59,250	28,00,000	70,000	57,400	29,27,400
80,00,000	28,00,000	70,000	57,400	29,27,400	40,00,000	1,00,000	82,000	41,82,000	32,00,000	80,000	65,600	33,45,600
90,00,000	31,50,000	78,750	64,575	32,93,325	45,00,000	1,12,500	92,250	47,04,750	36,00,000	90,000	73,800	37,63,800
1,00,00,000	35,00,000	87,500	71,750	36,59,250	50,00,000	1,25,000	1,02,500	52,27,500	40,00,000	1,00,000	82,000	41,82,000

§ Relevant table for assessment year 2004-05 is give on page 254.

1. Surcharge at the rate of 2.5% and addl. S.C. @ 2% of I.T. & S.C. is also payable by the "Domestic Company" and also by the "Foreign Company" on the whole amount of income tax as no ceiling limit of total (taxable) income is provided in the Paragraph E of Part III of the first Schedule to the Finance (No. 2) Act, 2004.

2. Refer footnote No. 7 on page 257.

3. Refer footnote No. 8 on page 257.

TAX SAVINGS PLAN

(Under the existing Small Savings Schemes in force as on 9th July, 2004)

Investment made in the savings specified in the Chart below is not an asset u/s. 2(ea) of the Wealth-tax Act, and as such Wealth-tax is not payable in respect of such savings.

Name of the Scheme (Security)	Limits of Investment	Rate of interest and when payable	Whether the INTEREST IS TAX-FREE u/s. 10 of the Income-tax Act	Whether the amount INVESTED qualifies for deduction from income-tax u/s. 88 of the Income-tax Act
1. Post Office Savings Bank	Minimum Rs. 50. Maximum Rs. 1,00,000 for an individual and Rs. 2,00,000 for 2 or 3 adults jointly, in one or more accounts.	at 3.5% (Tax free) payable annually by credit to the account.	Yes. See Sec. 10(15)(i). Noti. No. G.S.R. 607(E), dt. 9-6-89 [178 ITR(St.) 43].	No
2. Public Provident Fund Account	Minimum Rs. 500 and maximum Rs. 70,000 in a financial year (Minimum period 15 years). Individuals & HUF [Sec. 88(2)(v) read with Sec. 88 (4)(a)].	Current rate 8% compound, to be credited to the account at the end of every financial year, payable at the time of withdrawal*.	Yes. See Sec. 10(11).	Yes (upto aggregate of Rs. 70,000. Refer page 237).
3. National Savings Certificates VIII Issue	Denomination of Rs. 100, Rs. 500, Rs. 1,000, Rs. 5,000 & Rs. 10,000 (without limit).	Compounded (half-yearly) at maturity Rs. 100 becomes Rs. 160.10†.	Qualifying for ded. u/s. 80L within limit of Rs. 12,000.	Yes (upto aggregate of Rs. 70,000. Refer page 237).
4. Post Office Time Deposit Account	In multiples of Rs. 200 (without limit). Account can be opened by an individual, Trust, Regimental Fund and Welfare Fund.	@ 6.25% for 1 year account. @ 6.50% for 2 years account. @ 7.25% for 3 years account. @ 7.50% for 5 years account. Interest payable annually calculated at quarterly basis.	Qualifying for deduction under Sec. 80L within limit of Rs. 12,000.	No No No No
5. 5-Year Post Office Recurring Deposit Account††	In multiple of Rs. 5 and minimum monthly deposit of Rs. 10. No limit. Advance deposits allowed.	An amount of Rs. 10 denomination will yield Rs. 728.90 at maturity.	Do	No
6. 6-Year Post Office Monthly Income Scheme	Minimum Rs. 1,000. Maximum Rs. 3,00,000 in a single account & Rs. 6,00,000 in a joint account.	8% p.a. payable monthly i.e., Rs. 80 will be paid every month on deposit of Rs. 12,000. A bonus @ 10% also payable on maturity i.e., Rs. 1,200 will be paid as bonus after 6 years for deposit of Rs. 12,000.	Do	No

* The subscriber is entitled to partial withdrawals every year from a PPF A/c after expiry of 5 years from the end of the financial year in which the initial subscription was made. The amount of withdrawal will be restricted to 50% of the balance standing to the credit of the subscriber at the end of 4th year immediately preceding the year of withdrawal or at the end of the preceding year, whichever is lower.

A subscriber may, on expiry of 15 years from the end of the year in which the initial subscription was made but before the expiry of one year thereafter, may exercise an option with the accounts office in Form H that he would continue to subscribe for a further block period of 5 years. In the event of a subscriber opting to subscribe for the aforesaid block period, he would be eligible to make one partial withdrawal per year subject to the condition that the total of the withdrawals, during the 5 year block period, shall not exceed 60% of the balance at his credit at the commencement of the said period. Where, however, the subscriber does not wish to make any further subscription, the balance at his credit shall continue to earn interest until he applies to the accounts office for the withdrawal of the entire balance standing to his credit. A subscriber may at his option (to be exercised before the expiry of 1st year of every extended block period) avail of this facility for a further block of 5 years on expiry of 20 years or on expiry of 25 years and so on, from the end of the year in which the initial subscription was made.

† Annual accrual of interest to be accounted for tax purposes. Accrued interest on NSC VIII issue eligible for deduction from income-tax u/s. 88. For details, refer pp. 237-242.

†† Life risk covered upto an account of the denomination of Rs. 50 per month, subject to conditions.

Note: (1) **National Savings Scheme, 1992:** Deposits are not accepted on or after 1-11-2002. For deposits made upto 31-10-2002, interest at the rate of 8.50% upto 28-2-2003 and thereafter at the rate of 7.50% will be credited annually on 1st April. The amount of interest qualifies for deduction u/s. 80L(1)(iii) [Vide Notification No. G.S.R. 820(E), dt. 21-10-92: 198 ITR (St.)133]. Interest credited in the account may be withdrawn at any time. The deposits may be withdrawn after the expiry of 4 years from the end of the year in which account was opened, at the option of the depositor. The amount of deposits withdrawn is not chargeable to income-tax as income. Withdrawals are not subject to deduction of tax @ source. The deposits or interest amount not withdrawn after it becomes due, will continue to earn interest to the date of its withdrawal.

(2) **Deposit Scheme for Retiring Government Employees, 1989 and Deposit Scheme for Retiring Employees of Public Sector Companies, 1991:** Deposits under these schemes will not be accepted on or after 9-7-2004. For deposits made upto 8-7-2004, interest at the rate of 7% is payable half-yearly on 30th June & 31st December. The interest paid is exempt u/s. 10(15)(iv)(i) of the Income-tax Act.

(3) An employee who is contributing to a Provident Fund as per his service conditions, can also simultaneously contribute to the Public Provident Fund.

Source: The Directorate of Small Savings, Govt. of Maharashtra, New Administrative Building, Opp. Mantralaya, Mumbai-400 032.

IMPORTANT CIRCULARS ON DIRECT TAXES:

I. CIRCULARS REGARDING EXPLANATORY NOTES ON FINANCE AND OTHER AMENDING ACTS ON PROVISIONS RELATING TO DIRECT TAXES

			Circular No.	*Date*	*Refer*
1.	FINANCE ACTS:				
	Finance Act, 2003	*[Assented on 14-5-2003]*	7	5-9-2003	263 ITR (St.) 62.
	Finance Act, 2002	*[Assented on 11-5-2002]*	8	27-8-2002	258 ITR (St.) 13.
	Finance Act, 2001	*[Assented on 11-5-2001]*	14*	12-12-2001	252 ITR (St.) 65.
	Finance Act, 2000	*[Assented on 12-5-2000]*	794	9-8-2000	245 ITR (St.) 21.
	Finance Act, 1999	*[Assented on 11-5-99]*	779	14-9-99	240 ITR (St.) 3.
	Finance (No. 2) Act, 1998	*[Assented on 1-8-98]*	772	23-12-98	235 ITR (St.) 35.
	Finance Act, 1997	*[Assented on 14-5-97]*	763	18-2-98	230 ITR (St.) 54.
	Finance (No. 2) Act, 1996†	*[Assented on 28-9-96]*	762	18-2-98	230 ITR (St.) 12.
2.	OTHER AMENDING ACTS:				
	Taxation Laws (Amendment) Act, 1991§		593	5-2-91	188 ITR (St.) 8.
			598 &	3-4-91	189 ITR (St.) 35.
			591	30-1-91	188 ITR (St.) 1.
3.	Special Bearer Bonds (Immunities and Exemptions) Act, 1981		318	1-1-82	134 ITR (St.) 162.
4.	Remittances in Foreign Exchange (Immunities) Scheme, 1991, and India Development Bonds Scheme, 1991 — Clarification thereon		611	30-9-91	191 ITR (St.) 319.
5.	Voluntary Disclosure of Income Scheme, 1997		753	10-6-97	226 ITR (St.) 4.
			754 &	10-6-97	226 ITR (St.) 8.
	Press Note on Circular No. 755, refer 227 ITR (St.) 5.		755	25-7-97	226 ITR (St.) 33.

6. Kar Vivad Samadhan Scheme, 1998: For clarifications on this Scheme, refer 233 ITR (St.) 50; 233 ITR (St.) 121; 234 ITR (St.) 111; and for Press Note, refer 234 ITR (St.) 62; 235 ITR (St.) 22; & 235 ITR (St.) 23.

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961:

Financial year	*Circular No.*	*Date*	*Refer*
1. FROM SALARIES DURING THE FINANCIAL YEAR UNDER SECTION 192:			
2003-04	9	18-11-03	264 ITR (St.) 93.
2002-03	13§§	23-12-02	259 ITR (St.) 9.
2001-02**	15	12-12-01	253 ITR (St.) 1.

A. In cases where non-residents are deputed to work in India and the taxes are borne by the employers, refunds due to non-resident employees after their departure from India can be issued to employer (i.e., company) provided the company, as an agent of a non-resident employee u/s. 163, itself has filed the return and assessed in its own name in respect of that income u/s. 161(1) [Circular No. 707, dt. 11-7-95: 214 ITR (St.) 129].

B. Where the head office or the branch office is already filing the return u/s. 206, no other Assessing Officer shall require the assessee to file such a return with him. Where, however, the return is not being filed, the Assessing Officer having jurisdiction in terms of rule 36A of the Income-tax Rules, may enforce compliance with the provisions relating to deduction of tax at source from "Salary" [Circular No. 719, dt. 22-8-95: 215 ITR (St.) 69].

C. Pensioners drawing their pensions through the banks, tax deduction at source certificate in the prescribed Form No. 16 is required to be furnished by banks to the pensioners even though no employee – employer relationship exists between the banks and the pensioner [Circular No. 761, dt. 13-1-98: 229 ITR (St.) 72].

* For corrigendum to para 25.3, refer 254 ITR (St.) 279.

† For ITR reference of Circulars on the Finance (No. 2) Act, 1971 to the Finance Act, 1995, refer page 297 of ITRR 1997-98 (59th Year of Publication).

§ For ITR reference of Circulars on the Amending Acts upto 1989, refer pp. 297-298 of ITRR 1997-98 (59th Year of Publication).

§§ For corrigendum to sub-para (4) of para 5.2, refer 259 ITR (St.) 87.

** The Board has decided that no tax deduction at source be made u/s. 192 for the financial year 2001-02 only, in respect of perquisites,—

(a) received in non-monetary form for assessees having income under the head "Salaries" (exclusive of such perquisites) not exceeding Rs. 1,00,000, or

(b) received in the form of free or concessional tickets received by employees of airlines or railways [Vide Circular No. 1, dt. 4-2-2002: 253 ITR (St.) 81].

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.):*

D. The Board has clarified that DDOs may not insist upon production of vouchers/bills by the employees for having incurred expenditure on medical treatment of their handicapped dependents for allowing the deduction u/s. 80DD for the purpose of computing the tax deductible at source from salaries during the financial year 1998-99 and onwards. However, employees are required to furnish a medical certificate from a Government hospital and a declaration certifying the actual amount of expenditure on medical treatment and receipt/acknowledgement for the amount paid/deposited in specified scheme of LIC/UTI [Circular No. 775, dt. 26-3-99: 236 ITR (St.) 251].

2. FROM INTEREST ON SECURITIES UNDER SECTION 193†:

A. In respect of cumulative debentures/bonds, tax is required to be deducted at source every time the interest is credited in the account books of the payer and is not to be postponed till the maturity of debentures/bonds [Circular No. 643, dt. 22-1-93: 200 ITR (St.) 181].

B. Since the income of Regimental Fund/Non-Public Fund established by the Armed Forces of the Union for the welfare of past/present members of such forces or their dependents is exempt u/s. 10(23AA), no tax may be deducted at source u/s. 193 from the income of such funds [Circular No. 735, dt. 30-1-96: 218 ITR (St.) 5].

C. In the case of a provident fund whose income is exempt u/s. 10(25)(ii) established under a scheme under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, on the income by way of interest on securities of the Central & State Governments, no deduction of tax @ source is to be made u/s. 193 from financial year 1995-96 and onwards [Circular No. 741, dt. 18-4-96: 219 ITR (St.) 9].

D. In the case of Ramakrishna Math and Ramakrishna Mission whose income is exempt u/s. 10(23C)(iv), the income by way of interest on securities of Central & State Governments, no deduction of tax @ source is to be made u/s. 193 from current financial year [Circular No. 745, dt. 19-7-96: 221 ITR (St.) 80]. Also refer sub-item C of item 9 on page 315.

3. FROM INTEREST OTHER THAN "INTEREST ON SECURITIES" UNDER SECTION 194A†:

A. The Board [Vide its Circular No. 715, dt. 8-8-95: 215 ITR (St.) 12] have clarified the provisions of section 194A, as amended by the Finance Act, 1995, as under:

- Interest on reinvestment term deposit is liable for TDS at the time of credit of interest to the account of payee or at the time of payment thereof, whichever is earlier. If credit/payment is made to him annually, the tax may be deducted annually. Credit to interest payable account or suspense account, etc. is also taken as credit to the account of the payee [Vide answer to question No. 32 of Circular No. 715: 215 ITR (St.) 18].
- Interest on variable deposit schemes is liable for TDS as the variable deposits are in the nature of time deposits [Vide answer to question No. 33 of Circular No. 715: 215 ITR (St.) 18].
- If the time deposit is renewed after 1-7-1995, TDS will have to be made from interest paid or credited in respect of such a time deposit [Vide answer to question No. 34 of Circular No. 715: 215 ITR (St.) 18].

B. Deduction of income-tax from interest on time deposits with banks ††—

(i) clarification regarding [Circular No. 626, dt. 12-2-92: 193 ITR (St.) 209],

(ii) extension of applicability of section 194A [Circular No. 617, dt. 22-11-91: 192 ITR (St.) 277].

C. From interest payments under the Land Acquisition Act, 1894, tax is to be deducted at source [Circular No. 526, dt. 5-12-88: 175 ITR (St.) 2]. Interest payments made under the Land Acquisition Act, 1894, responsibility for making deduction of tax at source u/s. 194A should be that of the Collector (Land Acquisition) or any authority empowered under the Land Acquisition Act, 1894 [Circular F. No. 275/109/92-IT(B), dt. 21-9-94: 210 ITR (St.) 83].

D. Deduction of tax @ source — Liability for clarification regarding [Circular No. 288, dt. 22-12-80: 130 ITR (St.) 2].

E. Deduction of tax @ source — Interest on deposits in joint names [Circular No. 256, dt. 29-5-79: 126 ITR (St.) 22].

F. Where the interest from the buyer is not for the bank as such, but only routed through bank to the recipient supplier, the buyer has to deduct tax at source [Circular No. 48, dt. 7-11-70: 78 ITR (St.) 61].

G. Where the bank discounts usance bill/hundi and credits the net amount to supplier's account immediately without waiting for realisation of the bill on due date, the property in bill passes to the bank & eventual collection on due date is receipt by bank. In such cases, net payment by bank to supplier is in the nature of price paid for the bill and no tax is to be deducted at source [Circular No. 65, dt. 2-9-71: 82 ITR (St.) 33].

H. In respect of cumulative deposits, tax is required to be deducted at source every time the interest is credited in the account books of the payer and is not to be postponed till the maturity of deposit [Circular No. 643, dt. 22-1-93: 200 ITR (St.) 181].

I. The difference between the issue price and the face value of the Commercial Papers and the Certificates of Deposits is to be treated as 'discount allowed' and not 'as interest paid' and hence no deduction of tax at source is to be made u/s. 194A [Circular No. 647, dt. 22-3-93: 200 ITR (St.) 230].

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† Also refer, sub-items C to F of item 9 on page 315.

†† Interest on time deposits/deposits other than time deposits, paid or credited by a co-operative bank to its 'member', deduction of tax at source is not to be made by such bank [Vide section 194A(3)(v)]. It is clarified that the 'member' should have subscribed to at least one fully paid-up share of such bank and he is entitled to vote at the general body meetings and/or special general body meetings of such bank and is entitled to receive share from profits of such bank. In the case of non-member depositor of such bank, deduction of tax at source is not to be made by such bank in respect of interest only on deposits other than time deposits made on or after 1-7-95 [Vide section 194A(3) (viia)] [Circular No. 9, dt. 11-9-02: 257 ITR (St.) 36].

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.)*:

4. FROM WINNINGS FROM LOTTERY OR CROSSWORD PUZZLE (SECTION 194B), WINNINGS FROM HORSE RACES (SECTION 194BB) & COMMISSION, ETC. ON SALE OF LOTTERY TICKETS (SECTION 194G):

   A. Prizes awarded to the agents under the scheme of "lucky dip draws" is liable to tax at source [Circular No. 264, dt. 11-2-80: 124 ITR (St.) 1].

   B. Winnings from horse races — Amendments to Income-tax Rules, 1962 — Explanatory Notes [Circular No. 241, dt. 1-6-78: 117 ITR (St.) 44].

5. PAYMENTS TO CONTRACTORS AND SUB-CONTRACTORS UNDER SECTION 194C:

   A. The Board [Vide its Circular Nos. 713, dt. 2-8-95: 215 ITR (St.) 4; 714, dt. 3-8-95: 215 ITR (St.) 5; and 715, dt. 8-8-95: 215 ITR (St.) 12] have clarified the provisions of section 194C, as amended by the Finance Act, 1995, as under:

   ADVERTISING, BROADCASTING AND TELECASTING INCLUDING PRODUCTION OF PROGRAMMES FOR SUCH BROADCASTING OR TELECASTING:

   - The advertising may be in print or electronic media, i.e., in newspapers, periodicals, radio, television, etc. In such cases the tax has to be deducted u/s. 194C @ 1% of the payment made for advertising including production of programmes for such broadcasting and telecasting to be used in the advertising. In all other cases of work of broadcasting and telecasting including production of programmes for such broadcasting and telecasting, where advertising is not involved, tax has to be deducted @ 2% of the sum [Vide Circular No. 714: 215 ITR (St.) 5].
   - TDS is required to be made u/s. 194C @ 1% on advertising payment made by a client to an advertising agency. However, no TDS is required to be made if such payment is made by an advertising agency to the media, which includes both print and electronic media. It may be noted that, where advertising agency makes payments to their models, artists, photographers, etc., the TDS shall be u/s. 194J [Vide answers to questions No. 1 & 2 of Circular No. 715: 215 ITR (St.) 12].
   - If the advertising agencies give a consolidated bill including charges for art work and other related jobs as well as payments made by them to media, deduction of tax will be at the rate of 1% u/s. 194C. If, payments are made for production of programmes for the purpose of broadcasting and telecasting, these payments will be subjected to TDS at 2%. Even if the production of such programmes is for the purpose of preparing advertisement material, not for immediate advertising, the payment will be subjected to TDS at the rate of 2% [Vide answer to question No. 3 of Circular No. 715: 215 ITR (St.)12].
   - If the payments are made directly to print and electronic media for release of advertisement, deduction will have to be made u/s. 194C @ 1%. However, payments made directly to Doordarshan may not be subjected to TDS as Doordarshan, being a Government agency, is not liable to income-tax [Vide answer to question No. 4 of Circular No. 715: 215 ITR (St.) 13].
   - The contract for putting up a hoarding is in the nature of advertising contract and provisions of section 194C would be applicable. If a person has taken a particular space on rent and thereafter sublets the same fully or in part for putting up a hoarding, he would be liable to TDS u/s. 194-I & not u/s. 194C [Vide answer to question No. 5 of Circular No. 715: 215 ITR (St.) 13].
   - Tax is to be deducted u/s. 194C @ 1% of the gross amount of the bill (including bill of media and not restricted to payment of commission to the person who arranges release of advertisement, etc. [Vide answer to question No. 17 of Circular No. 715: 215 ITR (St.) 15].
   - The agreement of sponsorship of debates, seminars and other functions held in colleges, schools and associations with a view to earn publicity through display of banners, etc., put by the organisers is, in essence, an agreement for carrying out a work of advertisement. Therefore, provisions of section 194C shall apply [Vide answer to question No. 18 of Circular No. 715: 215 ITR (St.) 15].
   - TDS is required to be made on payments for cost of advertisements in the souvenirs brought out by the organisers [Vide answer to question No. 19 of Circular No. 715: 215 ITR (St.) 16].

   CARRIAGE OF GOODS AND PASSENGERS BY ANY MODE OF TRANSPORT OTHER THAN BY RAILWAYS:

   - The provisions of section 194C do not apply to the payments made to the airlines/any other mode of transport or the travel agents for purchase of tickets for travel by air or by any other mode of transport of individuals. The provisions, shall, however, apply when payments are made for chartering an aircraft/any other mode of transport for carriage of passengers or goods [Vide Circular No. 713: 215 ITR (St.) 4].
   - Payments made to clearing and forwarding agents for carriage of goods shall be subjected to TDS u/s. 194C [Vide answer to question No. 6 of Circular No. 715: 215 ITR (St.) 13].
   - The travel agent, issuing tickets on behalf of the airlines for travel of individual passengers, would not be required to deduct tax @ source from the sum payable to airlines as he acts on behalf of the airlines. Since clearing and forwarding agents act as independent contractors, they would be liable to deduct tax @ source while making payments to a carrier of goods [Vide answer to question No. 7 of Circular No. 715: 215 ITR (St.) 14].
   - Payments made to couriers for carrying documents, letters, etc., is in the nature of carriage of goods and, therefore, provisions of section 194C would be attracted in respect of such payments [Vide answer to question No. 8 of Circular No. 715: 215 ITR (St.) 14].

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.):*

- In the case of payments to transporters, normally, each GR can be said to be a separate contract, if the goods are transported at one time, even though payments for several GRs are made under one bill. But, if the goods are transported continuously in pursuance of a contract for a specific period or quantity, each GR will not be a separate contract and all GRs relating to that period or quantity will be aggregated for the purpose of TDS [Vide answer to question No. 9 of Circular No. 715: 215 ITR (St.) 14].
- It is obligatory to deduct tax @ source out of payment of freight when the goods are received on "freight to pay" basis [Vide answer to question No. 10 of Circular No. 715: 215 ITR (St.)14].

CATERING:

- TDS is not required to be made when payment is made for serving food in a restaurant in the normal course of running of the restaurant/cafe [Vide answer to question No. 11 of Circular No. 715: 215 ITR (St.) 14].

WORKS CONTRACT, ETC.:

- Payment to recruitment agencies are in the nature of payments for services rendered and hence TDS shall be u/s. 194J and not u/s. 194C [Vide answer to question No. 12 of Circular No. 715: 215 ITR (St.) 14-15].
- Payments made by a company to a share registrar is liable to TDS u/s. 194J and not u/s. 194C [Vide answer to question No. 13 of Circular No. 715: 215 ITR (St.) 15].
- FD commission and brokerage are not liable to TDS u/s. 194C [Vide answer to question No. 14 of Circular No. 715: 215 ITR (St.) 15].
- Payment for supply of printed material as per prescribed specifications is liable to TDS u/s. 194C [Vide answer to question No. 15 of Circular No. 715: 215 ITR (St.) 15].
- Payment of commission to external parties in relation to rendering of services for procurement of orders is not liable to TDS u/s. 194C. TDS may be made u/s. 194J if such services involve payment of fees for professional or technical services [Vide answer to question No. 16 of Circular No. 715: 215 ITR (St.) 15].
- The payments made to an electrician or to a contractor who provides the service of an electrician will be in the nature of payment made in pursuance of a contract for carrying out any work and hence TDS will be u/s. 194C [Vide answer to question No. 28 of Circular No. 715: 215 ITR (St.) 17].
- Routine, normal maintenance contracts which include supply of spares will be liable to TDS u/s. 194C. However, where technical services are rendered, TDS will be u/s. 194J [Vide answer to question No. 29 of Circular No. 715: 215 ITR (St.) 17].
- TDS has to be made on the gross amount of bill including reimbursements for actual expenses [Vide answer to question No. 30 of Circular No. 715: 215 ITR (St.) 18].

B. Deduction of tax at source u/s. 194C — Instruction regarding — Circular Nos. 95, dt. 15-11-72:86 ITR (St.) 84; 114, dt. 21-6-73: 90 ITR (St.) 22; 295, dt. 27-4-81: 130 ITR (St.) 6; 613, dt. 14-11-91:192 ITR (St.) 254; 632, dt. 20-8-92:197 ITR (St.) 416; and 681, dt. 8-3-94: 206 ITR (St.) 299. Gist of Circular No. 681 is as under:

Fresh guidelines regarding deduction of tax at source u/s. 194C in supersession of Circulars No. 86 dt. 29-5-72 [86 ITR (St.) 86], 93 dt. 26-9-72 [86 ITR (St.) 30] and Para II of Circular No. 108, dt. 20-3-73, w.e.f. 1-4-1994:

1. (a) The provisions of section 194C shall apply to all types of contracts for carrying out any work including transport contracts, service contracts, advertisement contracts, broadcasting/telecasting contracts, labour contracts, materials contracts and works contracts. The term *'service contracts**' would include services rendered by such persons as lawyers, physicians, surgeons, engineers, accountants, architects, consultants, etc. However, where the payment, for services rendered, is in the nature of salary chargeable under the head income from "Salaries", section 194C will not apply [In such cases, tax deduction at source will be u/s. 192]. The term *'transport contracts'* would, in addition to contracts for transportation and loading/unloading of goods, also cover contracts for plying buses, ferries, etc., along with staff (e.g. driver, conductor, cleaner, etc.). The term *'materials contracts'* would mean contracts for supply of materials, where principal contract is for work and labour and not a contract for sale of materials. Payments made to persons who arrange advertisement, broadcasting, telecasting, etc., would be covered by section 194C.

   (b) Section 194C would apply to written as well as oral contracts.

   (c) Where the payment made under the contract is likely to exceed Rs. 10,000 *[w.e.f. 1-7-1995, Rs. 20,000]* for the entire period during which the contract will remain in force, tax should be deducted at source. Where the initial contract price is less than Rs.10,000 *[w.e.f. 1-7-1995, Rs. 20,000]*, but later on the payment exceeds that amount, deduction should be made in respect of earlier payments as well.

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* W.e.f. 1-7-1995, tax at source from payments made for 'fees for professional or technical services' will be under section 194J and not under section 194C.

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.):*

(d) Where advance payments are made during the execution of a contract and such payments are to be adjusted at the time of final settlement of accounts, tax will have to be deducted at the time of making advance payment, if the total payment is likely to exceed Rs. 10,000 *[w.e.f. 1-7-1995, Rs. 20,000]*.

(e) The other conditions governing deduction of tax at source u/s. 194C would continue to apply.

2. The provisions of section 194C would *not* apply:-

(a) to payments made for hiring or renting of equipments, etc.

(b) to payments made to banks for discounting bills, collecting/receiving payments through cheques/drafts, opening and negotiating letters of credit and transactions in negotiable instruments.

(c) to contracts for sale of goods. However, contracts granted for processing/fabricating goods supplied by the payers specified in section 194C will be covered by section 194C, provided where the ownership of such goods remains at all times with such payers. Otherwise, where processing/fabricating goods is done according to the specification of such payers and the ownership thereof passes to such payers only when the article or thing is delivered, section 194C will not apply, as it will be a contract for sale, which is outside the purview of section 194C.

3. The above guidelines will apply w.e.f. 1-4-1994. Tax deduction already made up to 31-3-1994 in accordance with the earlier guidelines [Circular Nos. 86, 93 & 108] will be regarded as compliance with the provisions of section 194C.

C. Deduction of tax at source from the hire charges paid to the bus owners for the hire of buses — Clarifications regarding [Circular No. 558, dt. 28-3-80: 183 ITR (St.) 158].

D. Provisions of section 194C are not attracted in the case of payments made in respect of works executed under the National Rural Employment Programme & Rural Landless Employment Guarantee Programme [Circular No. 502, dt. 27-1-88: 170 ITR (St.) 206].

E. Deduction for payments to contractors and sub-contractors in bidi manufacturing industry — Clarification regarding [Circular No. 433, dt. 25-9-85: 157 ITR (St.) 27 and Circular No. 487, dt. 8-6-87: 166 ITR (St.) 137].

F. Provisions of section 194C are applicable to all types of contracts for carrying out any work, such as transport contracts, service contracts, labour contracts, material contracts as well as works contracts, etc. [Circular No. 666, dt. 8-10-93: 204 ITR (St.) 40].

6. INSURANCE COMMISSION UNDER SECTION 194D:
Deduction of income-tax @ source u/s. 194D — Instructions regarding [Circular No. 112, dt. 31-5-73: 93 ITR (St.) 33; Circular No. 120, dt. 8-10-73: 93 ITR (St.) 1; and Circular No. 121, dt. 8-10-73: 92 ITR (St.) 5].

7. FROM PAYMENT OF RENT UNDER SECTION 194-I*:

A. The Board [Vide its Circular Nos. 715, dt. 8-8-95: 215 ITR (St.) 12 and Circular No. 718, dt. 22-8-95: 215 ITR (St.) 67] have clarified the provisions of section 194-I, as under:

- If a person has taken a particular space on rent and thereafter sublets the same fully or in part for putting up a hoarding, he would be liable to TDS u/s. 194-I and not u/s. 194C [Vide answer to question No. 5 of Circular No. 715: 215 ITR (St.) 13].
- Payments made by persons other than individuals and HUFs§ for hotel accommodation taken on regular basis† will be in the nature of rent subjected to TDS u/s. 194-I [Vide answer to question No. 20 of Circular No. 715: 215 ITR (St.) 16].
- If there are a number of payees, each having a definite and ascertainable share in the property, the limit of Rs. 1,20,000 p.a. will apply to each of the payees/co-owners separately [Vide answer to question No. 21 of Circular No. 715: 215 ITR (St.) 16].
- The tax is to be deducted from actual payment of rent and there is no need of computing notional income in respect of a deposit given to the landlord. If the deposit is adjustable against future rent, the deposit is in the nature of advance rent subject to TDS [Vide answer to question No. 22 of Circular No. 715: 215 ITR (St.) 16].
- In a case where the tenant makes a non-refundable deposit, tax would have to be deducted at source as such deposit represents the consideration for the use of land/building, etc., and, therefore, partakes of the nature of rent. If, however, the deposit is refundable, no tax would be deductible at source. If the deposit carries interest, the TDS on such interest will be u/s. 194A [Vide answer to question No. 2 of Circular No. 718: 215 ITR (St.) 68].

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* Also refer, sub-item D of item 9 on page 315 & sub-item Y of item 9 on page 316.

§ It may be noted that, provisions of section 194-I will cover payment of rent made by an individual or HUF where the total sales, gross receipts, or turnover from business/profession carried on by the individual or HUF exceed the monetary limits specified u/s. 44AB(a)/(b) *(w.e.f. 1-6-2002, vide 2nd proviso to section 194-I)* [Circular No. 5, dt. 30-7-02: 257 ITR(St.) 4].

† Where earmarked rooms are let out for a specified rate and specified period or where a room or set of rooms are not earmarked, but hotel has a legal obligation to provide such types of rooms during the currency of the agreement, same would be construed to be accommodation made available on "regular basis". However, where an agreement is in the nature of a rate contract (i.e., providing specified types of hotel rooms at pre-determined rates), it cannot be said to be accommodation "taken on regular basis" and hence provisions of section 194-I will not apply to such rate contract agreement [Circular No. 5, dt. 30-7-02: 257 ITR(St.) 4].

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.):*

- The tax is to be deducted at source from rent paid, by whatever name called, for hire of property. The incidence of TDS does not depend upon the nomenclature, but on the content of the agreement as mentioned in clause (i) of *Explanation* to section 194-I. In other words, taking premises on rent but styling the agreement as a business centre agreement would attract provisions of section 194-I [Vide answer to question No. 23 of Circular No. 715: 215 ITR (St.) 16].
- In a case of composite arrangement for user of premises and provisions of manpower for which consideration is paid as a specified percentage of turnover, provisions of section 194-I would apply if the composite arrangement is in essence the agreement for taking premises on rent [Vide answer to question No. 24 of Circular No. 715: 215 ITR (St.) 16-17].
- Where an advance of rent has been paid before 1-6-1994, there is no requirement for deduction of tax at source [Vide answer to question No. 1 of Circular No. 718: 215 ITR (St.) 68].
- Warehousing charges will be subjected to TDS u/s. 194-I [Vide answer to question No. 3 of Circular No. 718: 215 ITR (St.) 68].
- If the municipal taxes, ground rent, etc. are borne by the tenant, no tax will be deducted on such sum [Vide answer to question No. 4 of Circular No. 718: 215 ITR (St.) 68].
- Section 194-I is applicable to rent paid even for the use of a part or a portion of any land or building [Vide answer to question No. 5 of Circular No. 718: 215 ITR (St.) 68-69].

B. 1. There is no requirement to deduct tax at source on income by way of 'rent' if the payee is the Government. In the case of local authorities referred to in section 10(20) and statutory authorities referred to in section 10(20A), there will be no requirement to deduct tax at source from income by way of rent if the person responsible for paying it is satisfied about their tax exempt status u/s. 10(20)/10(20A) on the basis of a certificate to this effect given by the said authorities [Circular No. 699, dt. 30-1-95: 212 ITR (St.) 2].

2. Since the income of Regimental Fund/Non-Public Fund established by the Armed Forces of the Union for the welfare of past/present members of such forces or their dependents is exempt u/s. 10(23AA), no tax may be deducted at source u/s. 194-I from the income of such funds [Circular No. 735, dt. 30-1-96: 218 ITR (St.) 5].

C. Provisions of section 194-I are not applicable to the sharing of proceeds of film exhibition between a film distributor and a film exhibitor owning a cinema theatre since: (1) the exhibitor does not let out the cinema hall to the distributor; (2) the share of the exhibitor is on account of composite services; and (3) the distributor does not take the cinema building on lease or sub-lease or tenancy or under any agreement of similar nature [Circular No. 736, dt. 13-2-96: 218 ITR (St.) 97].

8. FROM PAYMENT OF FEES FOR PROFESSIONAL OR TECHNICAL SERVICES UNDER SECTION 194J:

The Board [Vide its Circular Nos. 714, dt. 3-8-95: 215 ITR (St.) 5; 715, dt. 8-8-95: 215 ITR (St.) 12; 726, dt. 18-10-95: 216 ITR (St.) 61; and 766, dt. 24-4-98: 231 ITR (St.) 13] have clarified the provisions of section 194J as under:

- An advertising agency making payments for professional services to a film artiste such as an actor, a cameraman, director, etc., is liable for TDS @ 5% u/s. 194J [Vide para 4 of Circular No. 714: 215 ITR (St.) 5].
- An advertising agency making payments to their models, artistes, photographers, etc. is liable for TDS @ 5% u/s. 194J [Vide answer to question No. 1 of Circular No. 715: 215 ITR (St.) 12].
- Payment to recruitment agencies are in the nature of payments for services rendered and hence TDS shall be u/s. 194J and not u/s. 194C [Vide answer to question No. 12 of Circular No. 715: 215 ITR (St.) 14-15].
- Payments made by a company to a share registrar is liable to TDS u/s. 194J and not u/s. 194C [Vide answer to question No. 13 of Circular No. 715: 215 ITR (St.) 15].
- If rendering of services for procurement of orders involve payment of fees for professional or technical services, TDS on such payments may be made u/s. 194J and not u/s. 194C [Vide answer to question No. 16 of Circular No. 715: 215 ITR (St.) 15].
- For the financial year 1995-96, the limit of Rs. 20,000 will have to be worked out taking into account all the payments from 1-4-1995 to 31-3-1996. But the deduction of tax @ source would be made at the specified rate only from the payment made on or after 1-7-1995 [Vide answer to question No. 25 of Circular No. 715: 215 ITR (St.) 17].
- Payments made to a hospital for rendering medical services liable for TDS u/s. 194J [Vide answer to question No. 26 of Circular No. 715: 215 ITR (St.) 17].
- Commission received by the advertising agency from the media is subject to TDS u/s. 194J [Vide answer to question No. 27 of Circular No. 715: 215 ITR (St.) 17].
- Routine, normal maintenance contracts which include supply of spares will be liable to TDS u/s. 194C. However, where technical services are rendered, TDS will be u/s. 194J [Vide answer to question No. 29 of Circular No. 715: 215 ITR (St.) 17].
- TDS has to be made on the gross amount of bill including reimbursements for actual expenses [Vide answer to question No. 30 of Circular No. 715: 215 ITR (St.) 18].
- Any fees paid through regular banking channels to any chartered accountant, lawyer, advocate or solicitor who is resident in India by the non-residents who do not have any agent or business connection or permanent establishment

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 *(Contd.):*

in India may not be subjected to the provisions of TDS u/s. 194J. However, foreign companies or foreign law and accountancy firms are required to send a quarterly statement (from the quarter ending 31st December, 1995), indicating the name and address of the person to whom the payments are made, to the Deputy Secretary, Foreign Tax Division, CBDT, Department of Revenue, M/O Finance, New Delhi [Vide Circular No. 726: 216 ITR (St.) 61].

As the details of payments made to the Indian residents can easily be verified or collected wherever required, the Board has decided to discontinue with immediate effect the requirement of sending the above quarterly statements (referred to in Circular No. 726 above) [Vide Circular No. 766: 231 ITR (St.) 13].

9. INSTRUCTIONS REGARDING DEDUCTION OF TAX AT SOURCE FROM:

A. Each section, regarding TDS under Chapter XVII, deals with a particular kind of payment to the exclusion of all other sections in this Chapter. Therefore, a payment is liable for TDS only under one section [Circular No. 720, dt. 30-8-95: 215 ITR (St.) 46].

B. Withdrawals of deposits made in National Savings Scheme, 1987 — Section 194EE [Circular No. 618, dt. 22-11-91: 192 ITR (St.) 320].

C. In the case of Ramakrishna Math and Ramakrishna Mission, Kolkata, whose income is exempt u/s. 10(23C)(iv), the incomes by way of: (1) interest on all securities including securities of Central and State Governments; (2) interest other than "income by way of interest on securities"; and (3) income in respect of units of a mutual fund specified u/s. 10(23D) or of the Unit Trust of India, may be paid to it without deduction of income-tax at source u/s. 193, 194A & 194K from the current financial year [Circular No. 3, dt. 28-6-02:256 ITR (St.) 22 read with Circular No. 11, dt. 22-11-02: 258 ITR (St.) 98].

D. In the case of Sri Sathya Sai Central Trust, Sri Sathya Sai Medical Trust and Sri Sathya Sai Institute of Higher Learning, Bangalore, whose incomes are exempt u/s. 10(23C)(iv), 10(23C)(via) & 10(23C)(vi), the income by way of: (1) Interest other than "income by way of interest on securities"; (2) Rent; and (3) Income in respect of units of a mutual fund specified u/s. 10(23D) or of the Unit Trust of India, may be paid to these institutions without deduction of income-tax at source u/s. 194A, 194-I & 194K for the financial years 2002-03 and 2003-04 [Circular No. 12, dt. 22-11-02: 258 ITR (St.) 98].

E. In the case of Shri Ram Chandra Mission, Chennai, whose income is exempt u/s. 10(23C)(iv), the income by way of: (1) Interest on securities; (2) Dividends; (3) Interest other than "income by way of interest on securities"; and (4) Income in respect of units of a mutual fund specified u/s. 10(23D) or of the Unit Trust of India, may be paid to it without deduction of income-tax at source u/s. 193, 194, 194A & 194K for the financial years 2002-03 and 2003-04 [Circular No. 2, dt. 11-3-03: 260 ITR (St.) 297].

F. In the case of World Renewal Spiritual Trust, Mumbai, whose income is exempt u/s. 10(23C)(vi), the income by way of: (1) Interest on securities; (2) Interest other than "income by way of interest on securities"; and (3) Income in respect of units of a Mutual Fund specified u/s. 10(23D) or of the Unit Trust of India, may be paid to it without deduction of income-tax at source u/s. 193, 194A & 194K for the financial years 2002-03 and 2003-04 [Circular No. 3, dt. 11-3-03: 260 ITR (St.) 297].

G. In the case of those funds or authorities or boards or bodies (as specified in Para 2 of the Circular), whose income is unconditionally exempt u/s. 10 and who are not required to file return of income as per section 139, there would be no requirement for tax deduction at source from income paid to it [Circular No. 4, dt. 16-7-02:256 ITR (St.) 22].

H. Tax would not be required to be deducted at source u/s. 194H by the Reserve Bank of India on the amount of turnover commission paid or credited by it to agency banks [Circular No. 6, dt. 3-9-03: 263 ITR (St.) 33].

I. The threshold limit for the purpose of tax deduction at source from income by way of dividends u/s. 194 and income in respect of units u/s. 194K shall be Rs. 2,500 (*as against Rs. 1,000*) with immediate effect [Circular No. 6, dt. 2-8-02:256 ITR (St.) 63].

J. The provisions of section 194K regarding TDS from income in respect of units are applicable to periodical distribution of income, which is in the nature of dividend. These provisions do not apply to capital gains arising at the time of re-purchase or redemption of the units [Vide answer to question No. 31 of Circular No. 715, dt. 8-8-95: 215 ITR (St.) 18].

K. Deduction of tax at source u/s. 195 from payments to non-residents [Circular No. 152, dt. 27-11-74: 98 ITR (St.) 19; 155, dt. 21-12-74: 98 ITR (St.) 110; 168, dt. 9-6-75: 101 ITR (St.) 48; 370, dt. 3-10-83: 145 ITR (St.) 10; 695, dt. 29-11-94: 211 ITR (St.) 28; 728, dt. 30-10-95: 216 ITR (St.) 141; 734, dt. 24-1-96: 217 ITR (St.) 74; 759, dt. 18-11-97: 228 ITR (St.) 146; 767, dt. 22-5-98:231 ITR (St.) 271; 10, dt. 9-10-02: 258 ITR (St.) 9; and 790, dt. 20-4-2000: 243 ITR (St.) 58 (This Circular revokes with immediate effect Circular No. 769, dt. 6-8-98: 232 ITR (St.) 25)].

L. Interest remitted by branches of banks to the head office situated abroad, under a Foreign Currency Packing Credit Scheme of Reserve Bank of India is taxable at the rate prescribed in section 115A/Double Taxation Avoidance Agreement. Consequently, provisions of TDS u/s. 195 would apply [Circular No. 740, dt. 17-4-96: 219 ITR (St.) 8].

M. The Board has clarified that the certificate issued u/s. 197(1) of I.T. Act [i.e., in terms of sections 192, 193, 194, 194A, 194D, 194-I, 194K and 195] will be applicable only in respect of credit or payments, as the case may be, subject to tax deduction at source, made on or after the date of such certificate. Therefore, no certificate u/s. 197(1) of the I.T. Act

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should be issued after the amounts subject to tax deduction at source stand credited or paid, whichever is earlier [Circular No. 774, dt. 17-3-99; 236 ITR (St.) 250].

N. Clarification regarding section 197A read with Rule 29C [Circular No. 351, dt. 26-11-82: 140 ITR (St.) 20].

O. Deduction of tax at source from payments in respect of systems software — Announcement made by the Finance Minister in Lok Sabha on 7-9-90 — Regarding [Circular No. 588, dt. 2-1-91: 187 ITR (St.) 63].

P. Deduction of tax at source — Payment in excess of the amount actually deducted/deductible from salaries and other types of payments u/s. 192 to 194D — Refund/adjustment of [Circular No. 285, dt. 21-10-1980: 130 ITR (St.) 1].

Q. Tax deduction at source from payments made to foreign shipping companies or their agents – For levy and recovery of the tax, ship-wise and journey-wise, provisions of section 172 are to apply and not of sections 194C and 195. For payments made to shipping agents of non-resident ship owners or charterers for carriage of passengers, etc., shipped at a port in India, provisions of section 172 shall apply and not of sections 194C and 195 [Circular No. 723, dt. 19-9-95: 215 ITR (St.) 116].

R. Clarification regarding deduction of tax u/s. 195 and the taxability of export commission payable to non-resident agents rendering services abroad [Circular No. 786, dt. 7-2-2000: 241 ITR (St.) 132].

S. Deduction of tax at source — Form of application for allotment of Tax deduction Account Number — Form No. 49B — Regarding [Circular No. 497, dt. 9-10-87:169 ITR (St.) 54].

T. Clarification on the use of challan forms with only three counterfoils for payment of advance tax and self-assessment tax — In such cases, the taxpayer may enclose with his return of income a photocopy (attested by him) of his copy of the Foil No. 3, which will be adequate compliance with *Explanation* (c)(i) to section 139(9) [Circular No. 697, dt. 16-12-94: 211 ITR (St.) 99].

It has been decided to withdraw challan forms with three counterfoils. Henceforth, challan forms will have four counterfoils. However, where the challans with the three counterfoils have been used, Circular No. 697 continue to be in force [Circular No. 709, dt. 19-7-95: 215 ITR (St.) 1].

Computerised challan forms for deposit of tax deducted at source can be used provided these are the exact replica of the one in use at present having the same format, colour and may be similar in size [Circular No. 796, dt. 10-10-2000: 246 ITR(St.) 1].

U. Issue of certificate for tax deducted at source under various provisions of the Income-tax Act —

For gist of Circular No. 664, refer sub-item 'L' of item 9 on page 320 of ITRR 1999-2000 (61st Year of Publication).

Issue of certificate for tax deducted at source u/s. 195A in respect of payment made "net of tax" [Circular No. 785, dt. 24-11-99: 241 ITR (St.) 2].

V. TDS certificates issued by Central Government Departments should be accepted by Assessing Officers if it indicates that credit has been afforded to the Income-tax Department by book adjustment and the date of such book adjustment is indicated therein. The certificate, in any case, should be genuine [Circular No. 749, dt. 27-12-1996: 223 ITR (St.) 127].

W. Procedure for filing of returns u/s. 206 in respect of TDS from salary vide Circular No. 719 (refer sub-item B of item 1 on page 309) extended to all other TDS returns filed under rule 37, as required u/s. 206 [Circular No. 744, dt. 6-5-96: 219 ITR (St.) 51].

Guidelines for the persons responsible for deducting the tax under Chapter XVII-B and desirous of filing any return or statement referred to in rule 37 or 37A on a computer media [Circular No. 797, dt. 10-10-2000: 246 ITR (St.) 1]. Modified guidelines for the principal officers of companies responsible for deducting the tax under Chapter XVII-B, mandatory filing of a return or statement referred to in rule 37 or 37A read with rule 37B on a computer media [Circular No. 8, dt. 18-9-03: 263 ITR (St.) 61].

X. Guidelines regarding taxation of income of artists, entertainers, sportsmen, etc. from international/national/local events-applicability of TDS provisions u/s. 194C, 194J, 194-I, 194E, 195 [Circular No. 787, dt. 10-2-2000: 243 ITR (St.) 1].

Y. Credit for tax deducted at source u/s. 199 in respect of TDS made u/s. 194-I on advance rent pertaining to more than one financial year – **(1)** credit for TDS shall be allowed in the same proportion in which such income is offered for taxation for different assessment years based on the single certificate furnished for tax so deducted on the entire advance rent; **(2)** subsequent to the TDS on advance rent pertaining to one or more financial years where: (a) rent agreement gets terminated/cancelled resulting into refund of balance amount of advance rent to the tenant; (b) rented property is transferred by way of sale, lease, gift, etc., with tenant in occupation or otherwise resulting into refund of balance amount of advance rent to the transferee/tenant, then, credit for the entire balance of TDS, which has not been given credit so far, shall be allowed in the assessment year relevant to financial year during which the rent agreement gets terminated/cancelled or rented property is transferred and balance of advance rent is refunded to the transferee or the tenant, as the case may be [Circular No. 5, dt. 2-3-2001: 248 ITR (St.) 241].

10. COLLECTION OF TAX AT SOURCE UNDER SECTION 206C IN RESPECT OF PROFITS AND GAINS FROM BUSINESS OF TRADING IN ALCOHOLIC LIQUOR, FOREST PRODUCE, ETC. :

Refer Circular No. 660, dt. 15-9-93: 204 ITR (St.) 19 & Circular No. 634, dt. 20-8-92: 197 ITR (St.) 170.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961

Gist of circular	*Circular No.*	*Refer*
A. TRUSTS & ASSOCIATIONS:		
1. If, a trust accumulates a larger income than the limits prescribed for exemption u/s. 11(1)(a), what would be chargeable to tax is the excess over the exempted limit, and not the entire accumulation including the exempted portion. However, investment is to be made of the entire unspent balance including the exempted portion.	29 Dt. 23-08-69	74 ITR (St.) 7.
2. Investment in "Indira Vikas Patra" & "Kisan Vikas Patra" are approved forms of investment u/s. 11(5)(i)	566 Dt. 17-07-90	185 ITR (St.) 1.
3. Condonation of delay in filing application in Form No. 10 in respect of accumulation of income u/s. 11(2) read with Rule 17 of I.T. Rules—Commissioner of Income-tax is authorised to admit belated applications	273 Dt. 3-06-80	126 ITR (St.) 27.
4. If a trust which has invested its funds in any concern in which the author, etc. are substantially interested does not divest itself of such investment before 1-1-1971, it will forfeit exemption from tax on its entire income if the investment in such concern exceeds 5% of the capital of the concern. Where the investment does not exceed 5% of the capital of the concern, however, the exemption from tax will be forfeited only in relation to the income from such investment and not in relation to the remainder of its income	51 Dt. 23-12-70	79 ITR (St.) 72.
5. Repayment of the loan originally taken to fulfil one of the objects of trust will amount to application of the income for charitable and religious purposes. If, objects of the trust is advancement of education and granting of scholarship loans as only one of the activities carried on for fulfilment of the objectives of the trust, granting of loans, even interest-bearing, will amount to application of income for charitable purposes. As and when the loan is returned, it will be treated as income of that year.	100 Dt. 24-01-72	88 ITR (St.) 66.
6. From 17-10-89, application for exemption u/s. 10, 11 & 12 of the Act is to be made to the Director of Income-tax (Exemptions), if the concerned institution is assessable in Delhi, Bombay, Calcutta or Madras	584 Dt. 13-11-90	186 ITR (St.) 155.
7. Filing the Form No. 10B and its annexure — an auditor can accept as correct the list of persons covered by section 13(3) as given by the managing trustee, etc.	143 Dt. 20-08-74	96 ITR (St.) 48.
8. Assessment of discretionary trusts u/s. 164/166 — Correct procedure-At the initial assessment, I.T.O./AO should opt to assess either the trust or the beneficiaries. Once the option is exercised, the same income cannot be taxed in the other person's hands (the beneficiary or the trustee, as the case may be)	157 Dt. 26-12-74	98 ITR (St.) 41.
9. Requirements of section 13(1)(d) read with section 11(1)(a) — Clarification regarding	335 Dt. 13-04-82	137 ITR (St.) 2.
10. An association/institution engaged in the promotion of sports and games can claim exemption u/s. 11, even if it is not approved u/s. 10(23)	395 Dt. 24-09-84	150 ITR (St.) 74.
11. In the cases of registered societies, trade & professional associations, social and sports clubs, charitable & religious trusts, etc., where the members or trustees are not entitled to any share in the income of the association of persons, the provisions of section 167A/167B will not be attracted and, accordingly, tax will be payable in such cases at the rate ordinarily applicable to the total income of an AOP and not at the maximum marginal rate	320 Dt. 11-01-82	134 ITR (St.) 166.
12. The income of a trust declared by any person by will, where such trust is the only trust so declared by him, will continue to be charged to tax in the manner prescribed in the 1st proviso to section 164(1), as hitherto, and section 167B will not be applicable in such cases. Similarly, other cases covered by the 1st proviso to section 164(1) & 164(3) would also not attract the provisions of section 167B . .	577 Dt. 4-09-90	185 ITR (St.) 49.
B. CO-OPERATIVE SOCIETY:		
1. Rebate or bonus (which is in the nature of deferred discount) passed on by the consumer co-operative stores to their members on the value of purchases, made by them, should be allowed as a deduction in computing the business income of such a society	117 Dt. 22-08-73	94 ITR (St.) 1.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	2. The provisions of section 80P will also be applicable in respect of Regional Rural Banks	319 Dt. 11-01-82	134 ITR (St.) 165.
C.	EXCLUSIONS (EXEMPTIONS):		
	1. Clarification regarding exemption u/s. 10(15)(ii) in the event of death of one of the joint holders of the certificates — surviving joint holder will continue to get exemption from tax on interest received upto a maximum amount permitted to be held in the case of joint holdings	102 Dt. 3-02-73	88 ITR (St.) 75.
	2. Investments in P.O. Savings a/c., etc. referred to in section 10(15)(ii) made by assessee in the name of his wife and minor children is also exempt in the hands of assessee	218 Dt. 30-04-77	109 ITR (St.) 75.
	3. Interest on Post Office Savings (Cumulative Time Deposits) Rules, 1959, is exempt u/s. 10(15)(ii)	410 Dt. 12-02-85	152 ITR (St.) 202.
	4. Gifts of a purely personal nature will not be chargeable to income-tax as casual income, except when they can be regarded as an addition to the salary or when they arise from the exercise of a profession or vocation— Section 10(3)	158 Dt. 27-12-74	98 ITR (St.) 97.
	5. Clarification regarding extent of exemption u/s. 10(10A)(i) in respect of commutation of pension — Members of the civil services of the Union	286 Dt. 17-11-80	127 ITR (St.) 6.
	6. Sports associations & institutions approved u/s. 10(23) — Clarification regarding	398 Dt. 17-10-84	150 ITR (St.) 74.
	7. Form Nos. 55 & 56 for grant of exemption u/s. 10(23), 10(23C)(iv) & 10(23C)(v) — Clarification regarding	557 Dt. 19-03-90	189 ITR (St.) 93.
	8. Clarification regarding exemption u/s. 10(23C)(iv) & 10(23C)(v) in respect of donations in kind	580 Dt. 14-09-90	185 ITR (St.) 117.
	9. Awards received by a non-professional sportsman will not be liable to tax in his hands as it would be in the nature of gift	447 Dt. 22-01-86	157 ITR (St.) 52.
	10. The benefit of exemption u/s. 10(4)(ii) will be available to joint account holders of the Non-resident (External) Accounts	592 Dt. 4-02-91	188 ITR (St.) 7.
	11. It is clarified that, by virtue of notification dt. 17-11-87, 9% Relief Bonds, 1987 shall be deemed to have been notified for the purpose of exemption u/s. 10(15)(iic) of the Income-tax Act, u/s. 5(1)(xvif) of the Wealth-tax Act and u/s. 5(1)(iii-d) of the Gift-tax Act	673 Dt. 21-12-93	205 ITR (St.) 47.
	12. Where a unit in the Export Processing Zones (EPZs)/100% Export Oriented Units (EOUs)/Software Technology Parks (STPs) develops software *sur place*, that is, at the client's site abroad, such unit should not be denied the tax holiday u/s. 10A or 10B on the ground that it was prepared on site, as long as the software is a product of the unit, i.e., it is produced by the unit	694 Dt. 23-11-94	211 ITR (St.) 26.
	13. Computation of income falling u/s. 10(23G)	780 Dt. 4-10-99	240 ITR (St.) 140.
D.	SALARY INCOME:		
	Leave salary:		
	1. Cash equivalent of leave salary payable on the death of a Government servant to his legal heirs is not liable to income-tax. This is because the receipt in the hands of the family is not in the nature of one from an employer to an employee	309 Dt. 3-07-81	132 ITR (St.) 3.
	2. Amounts received on encashment of leave salary due to an employee either in service or, upto assessment year 1982-83, at the time of his retirement, are taxable as part of his salary.	312 Dt. 31-08-81	132 ITR (St.) 4.
	3. The relief u/s. 89(1)/*89* read with rule 21A is admissible in respect of encashment of leave salary by an employee when in service	431 Dt. 12-09-85	156 ITR (St.) 82.
	Commutation of pension:		
	Received by Judges of the Supreme Court and the High Courts is exempt u/s. 10(10A)(i)	623 Dt. 6-01-92	193 ITR (St.) 109.
	House rent allowance (HRA):		
	For the purposes of calculating HRA that would be exempt under rule 2A, the term 'salary' includes "dearness pay" also in the case of Government servants	90 Dt. 26-06-72	85 ITR (St.) 34.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
Voluntary retirement payments:			
	Clarification of the queries in respect of the guidelines contained in new rule 2BA for the purposes of section 10(10C) as amended by the Finance Act, 1992	640 Dt. 26-11-92	199 ITR (St.) 2.
Perquisites:			
1.	The payment of salary to a gardener cannot be regarded as a perquisite. However, the expenses incurred by way of maintenance of a gardener may be taken into account for the purposes of estimating value of rent free accommodation provided by the employer *[W.e.f. 2-6-1995, provision by the employer of free services of a gardener will be valued under the then Rule 3(ba) upto assessment year 2001-02: Refer item (F) on page 91 of ITRR 2002-03 (64th Year of Publication). From assessment year 2002-03 and onwards, it will be valued under Rule 3(3) : Refer item (v) on page 84]* . .	122 Dt. 19-10-73	94 ITR (St.) 1.
2.	Reimbursement (by the employer) of wages of sweeper, gardener or watchman engaged by the employee is fully taxable as income from "Salaries" in the hands of the employee	662 Dt. 27-09-93	204 ITR (St.) 34.
3.	Explanatory note on Rule 3 relating to valuation of perquisites — As amended by the Income-tax (Amendment) Rules, 1974 and the Income-tax (Third Amendment) Rules, 1974	130 Dt. 16-03-74 150 Dt. 19-11-74	94 ITR (St.) 17. 98 ITR (St.) 17.
4.	In the case of hotel employees, valuation of perquisites in the form of free food will have to be determined in terms of the then Rule 3(g). .	311 Dt. 24-08-81	132 ITR (St.) 9.
5.	For assessment years 1984-85 to 2001-02, rent free accommodation provided by an employer to an employee at Bombay, Calcutta, Delhi and Madras, the perquisite value will be calculated by adding the excess over 60% of the salary of the employee	374 Dt. 14-12-83	146 ITR (St.) 60.
6.	Valuation of perquisites in the form of reimbursement of medical expenses/provision of medical facilities by an employer— in relation to assessment year 1991-92 & subsequent years Circular No. 376: 146 ITR (St.) 62; 445: 157 ITR (St.) 49; & 481: 165 ITR (St.) 225, and all other instructions on the subject have been superseded. List of hospitals recognised under Central Government Health Scheme *[Note: From assessment year 1991-92 & onwards perquisite in the form of medical expenses, etc. is to be determined as per 1st proviso to section 17(2)]*. .	603 Dt. 6-06-91	190 ITR (St.) 6.
7.	Reimbursement of tuition fees is not exempt from tax [Refer Para 4(viii) of the circular]	629 Dt. 31-07-92	197 ITR (St.) 65.
8.	For assessment years 1996-97 to 2001-02*, food and beverages provided by the employer to its employees (irrespective of salary limits) even outside the place of work, but during the office hours — In the hands of an employee, the amount upto Rs. 35 per day will not be treated as income, provided the amount is paid by the employer directly to the caterer, restaurant, eating place, canteen, etc. [Read with Circular No. 708, dt. 18-7-95: 214 ITR (St.) 254. Refer item F. 6. A. on page 321]	727 Dt. 27-10-95	216 ITR (St.) 98.
General:			
1.	Recognised provident fund — gratuity fund — Rules 67A & 101A of I.T. Rules-Instructions regarding	110 Dt. 13-04-73	89 ITR (St.) 142.
2.	Notification fixing the rate of interest issued under rule 6 of Part A of the Fourth Schedule will have only prospective effect	188 Dt. 16-01-76	102 ITR (St.) 89.
3.	Clarification regarding winding up of superannuation fund	595 Dt. 5-03-91	188 ITR (St.) 87.
4.	Instructions regarding Approval of superannuation fund under Part B of the Fourth Schedule — Rule 89 of I.T. Rules	403 Dt. 5-12-84 500 Dt. 9-12-87	151 ITR (St.) 46. 169 ITR (St.) 60.
5.	Employer should require the employee to obtain from the concerned I.T.O. a certificate u/s. 197(1) authorising no deduction or deduction at such lower rates as may be prescribed in the said certificate. . . .	147 Dt. 28-10-74	98 ITR (St.) 20.

* From assessment year 2002-03 and onwards, perquisite in respect of free meals will be valued under Rule 3(7)(iii) [For details, refer sub-item (c) of item (ix) on page 86].

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

Gist of circular	*Circular No.*	*Refer*
6. Accrued interest on NSC VI/VIII Issues qualifies for rebate u/s. 88 [Vide para 6(6)(b) on page 122 of the circular]	9 Dt. 18-11-03	264 ITR (St.) 93.
7. Allowances like uniform/attire, books/periodicals, entertainment, furnishing, etc. will be covered u/s. 2(24)(iiia). Similarly, allowances like dearness allowance, city compensatory allowance, etc. will be covered u/s. 2(24)(iiib). Withdrawals made by the employee from the National Savings Scheme or the amount received on account of deferred annuity plans of L.I.C. (i.e., 'Jeevan Dhara' & 'Jeevan Akshay' policy) is to be included in the employee's income while deducting tax at source [Refer para 3 & 5(viii) of the circular]	537 Dt. 12-07-89	179 ITR (St.) 1.
8. It is clarified that consequent to the amendment of section 10(14) by the Direct Tax Laws (Amendment) Act, 1987 (w.e.f. 1-4-1989), all circulars, instructions and clarifications issued by the Board regarding section 10(14) upto 31-3-1989 ceased to have effect from assessment year 1989-90 and onwards	701 Dt. 23-03-95	213 ITR (St.) 1.
9. The transport allowance granted to the employees of the Central Government is not covered by the provisions of section 10(14)(i) of the Income-tax Act, 1961, read with rule 2BB(1)(c) of the Income-tax Rules, 1962 and hence is taxable as income. It is further clarified that any allowance, by whatever name called, granted by an employer, which has the element of compensation of the expenditure incurred on commuting from residence to office or *vice versa*, will also not qualify for the benefit u/s. 10(14)(i)†	†764 Dt. 20-02-98	230 ITR (St.) 93.
E. PROPERTY INCOME: Interest on house building advance taken by Central Govt. servants under the House Building Advance Rules can be allowed as deduction u/s. 24(1)(vi) on accrual basis eventhough such interest is payable later . .	363 Dt. 24-06-83	143 ITR (St.) 2.
F. BUSINESS/PROFESSIONAL INCOME:		
1. **Advertisement:**		
A. No distinction need be drawn between expenditure on advertisement in souveniers & other types of advertisements. Claims in respect of expenditure on advertisement in souveniers may be allowed if condition laid down in Rule 6B are fulfilled & there is evidence that the expenditure has been incurred . .	200 Dt. 28-06-76	104 ITR (St.) 50.
B. If advertisements have been released in more than one souvenier published by the same organisation, deduction in respect of such publicity is admissible subject to conditions under section 37(3) read with Rule 6B	203 Dt. 16-07-76	104 ITR (St.) 52.
2. **Depreciation:**		
A. Where tour operators/travel agents use foreign motor cars, owned by them, for providing transportation services to tourists, dep. will be allowed on such cars. "Motor vans" are akin to "motor lorries" or "motor buses" and, therefore, higher rate of dep. [Ref.III(3)(ii) on page 110] will be allowed on motor vans also, if they are used for providing transport services to tourists	609 Dt. 29-07-91	191 ITR (St.) 1.
B. Higher rate of depreciation [Refer item III(3)(ii) on page 110] will also be admissible on motor lorries used in the assessee's business of transportation of goods on hire but not to its user in some non-hiring business of the assessee . . .	652 Dt. 14-06-93	202 ITR (St.) 55.
C. "Motor vans" are more akin to "Motor Lorries" & "Motor Buses" than to "Motor Cars", depreciation on "Motor vans" may be allowed at the rate applicable to "Motor Lorries" & "Motor Buses"	315 Dt. 24-09-81	132 ITR (St.) 11.
D. Section 32(1)(iii) — Meaning of "actually written off" — Clarification regarding — Terminal allowance	212 Dt. 26-02-77	108 ITR (St.) 3.

† This circular stands superseded by the amended Rule 2BB(2) w.e.f. 1-8-1997. Under the amendment of the said rule, transport allowance, granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty, is exempt u/s. 10(14)(ii). For details, refer Serial Nos. 10 & 11 on page 72.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	E. "10% Central Outright Grant of Subsidy Scheme, 1971" for industrial units to be set up in certain backward districts/areas would constitute capital receipt in the hands of recipient [Vide Circular No. 142, dt. 1-8-74: 95 ITR (St.) 151]. Amount of such subsidy will be deducted from the cost of assets for purposes of allowing depreciation & development rebate on such assets . .	190 Dt. 1-03-76	109 ITR (St.) 115.
	F. Depreciation on buy and lease back transactions—New Accounting Standard on "leases" issued by the Institute of Chartered Accountants of India require capitalisation of the asset by the lessees in financial lease transaction. By itself, the accounting standard will have no implication on the allowance of depreciation on assets under the provisions of the Income-tax Act . .	2 Dt. 9-02-2001	247 ITR (St.) 53.
3.	**Development allowance u/s. 33A:** Instruction regarding creation of reserve	325 Dt. 3-02-82	135 ITR (St.) 5.
4.	**Investment allowance u/s. 32A:** For gist of Circulars issued u/s. 32A, refer sub-item 4 of item F on page 308 of ITRR 1996-97 (58th Year of Publication).		
5.	**Gratuity:** Provision towards service gratuity to employees — Allowance regarding	146 Dt. 26-09-74	101 ITR (St.) 46.
6.	**Entertainment expenditure u/s. 37(2)*/37(2A)†:**		
	A. For assessment years 1996-97 & 1997-98, expenditure upto Rs. 35 per day per employee (irrespective of salary limits) shall not be treated as in the nature of entertainment if the same is incurred on food and beverages even outside the place of work, but during working hours subject to proof of genuineness of the expenditure. In case the expenditure exceeds the above limit, only the excess over Rs. 35 per day per employee shall be treated as entertainment in the nature within the meaning of the *Explanation* under section 37(2). In the hands of the employee, the amount upto Rs. 35 per day will not be treated as income, provided the amount is paid by the employer directly to the caterer, restaurant, eating place, canteen, etc. [As partially modified by Circular No. 727 dt. 27-10-95: 216 ITR (St.) 98]	708 Dt. 18-07-95	214 ITR (St.) 254.
	B. For A.Ys. 1993-94 to 1995-96, expenditure on provision of food/beverages by an employer to employees whose salary does not exceed Rs. 24,000 [refer item (iii) (c) on page 78] will not be treated as entertainment expenditure within the meaning of the *Explanation* u/s. 37(2) if such food or beverages are provided during working hours even in places other than the place of work, provided the expenditure is genuine and reasonable	644 Dt. 15-03-93	200 ITR (St.) 226.
	C. The percentage limits mentioned in sec. 37(2A) are to be calculated before allowing deduction in respect of development rebate, development allowance, investment allowance & entertainment expenditure *[Applicable upto A. Y. 1992-93]* . .	247 Dt. 21-10-78	116 ITR (St.) 27.
7.	**Disallowance of expenditure in respect of which payment is made otherwise than by a crossed cheque or DD — Section 40A(3):**		
	A. Increased monetary ceiling limit of Rs. 10,000 will apply in respect of payments made in previous year relevant to assessment year 1989-90 and subsequent years *(i.e., upto assessment year 1996-97)* . .	522 Dt. 18-08-88	173 ITR (St.) 44.
	B. Any payment for business expenditure made otherwise than by crossed cheque/DD during the period when the cheque clearing operations are suspended or other similar circumstances [refer sub-item (ii) of item (iii) on pp. 136-137 of ITRR 1999-2000] will not be disallowed under the provisions of section 40A(3) provided the assessee furnishes evidence as to the genuineness of the payment and identity of the payee	250 Dt. 11-01-79*	117 ITR (St.) 48.

*Section 37(2) omitted w.e.f. 1-4-1998 (assessment year 1998-99 and onwards).

†Section 37(2A) omitted w.e.f. 1-4-1993 (assessment year 1993-94 and onwards).

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	C. Clarification regarding *the then* Rule 6DD(j) — For gist, refer sub-item (ii) of item (iii) on pp. 136-137 of ITRR 1999-2000 . .	220 Dt. 31-05-77*	108 ITR (St.) 8.
	D. Section 40A(3) will not apply to payments towards the purchase price of capital assets such as plant & machinery not meant for re-sale	34 Dt. 5-03-70	76 ITR (St.) 13.
	E. Banks may return the paid cheques to their constituents after obtaining formal undertaking from them to the effect that they shall retain the returned paid cheques for a period of 8 years & produce them before I.T.O. whenever called upon to do so . .	33 Dt. 29-12-69	75 ITR (St.) 5.
8.	**Other expenditure:**		
	A. Expenditure incurred by business concerns on civil defence measures as specified in the Circular No. 10/22/65-IT(AI), dt. 24-5-65, even when there is no emergency, would be allowable to the extent found reasonable, in the manner indicated in the circular	316 Dt. 30-09-81	132 ITR (St.) 11.
	B. In view of the statutory obligation cast on the employers under the provisions of the Apprentices Act, 1961, recurring expenses incurred on imparting of the basic training to the apprentice under the said Act will be allowable as a deduction u/s. 37(1) . .	192 Dt. 10-03-76	109 ITR (St.) 116.
	C. The amount paid towards security deposit for Telex connection may be treated as a revenue expenditure and allowed as deduction when Telex is installed. However, when Telex connection is finally closed, the deposit so refunded shall be treated as income of the year in which it is refunded	420 Dt. 4-06-85	155 ITR (St.) 43.
	D. Deposit made under the "Own Your Telephone Scheme" will be allowed in the year of payment and in case the telephone is not installed and money is paid back, it will be chargeable to tax u/s. 41(1)	Inst. No. 204/70/75-IT(AII) Dt. 10-05-76.	
	E. Deposit made under the "Tatkal Telephone Deposit Scheme" will be allowed as deduction in the year of payment if the assessee makes such a claim. However, as and when any part of the amount is refunded on surrender of telephone or otherwise, the refunded amount shall be treated as income of the year in which the amount is so refunded and brought to tax u/s. 41(1)	671 Dt. 27-10-93	204 ITR (St.) 156.
	F. Professional tax paid by a person carrying on business or profession is allowable as revenue expenditure u/s. 37(1). . . .	16 Dt. 18-09-69	1970 ITL Page LXXXIII.
	G. Treatment of subsidy granted by the State Government to producers for the production of feature films in regional language	541 Dt. 25-07-89 544 Dt. 15-09-89	179 ITR (St.) 30. 180 ITR (St.) 29.
	H. Instruction regarding amortisation of cost of production of films and acquiring of distributing rights—Also refer Circular No. 92, dt. 18-9-72: 86 ITR (St.) 29 & 30, dt. 9-4-69: 74 ITR (St.) 9 . .	154 Dt. 5-12-74	98 ITR (St.) 38.
	I. Scientific research expenditure—Procedure for dealing with pending as well as fresh applications for approval u/s. 35 (1)(ii) & 35 (1)(iii)	778 Dt. 20-08-99	239 ITR (St.) 55.
	J. Section 37(1)/57(iii)—For assessment year 1993-94 and onwards, interest on delayed payments for goods or services made by a buyer, to an ancillary or small-scale industrial undertaking is to be disallowed	651 Dt. 11-06-93	202 ITR (St.) 54.
9.	**Miscellaneous:**		
	A. Section 43B — If the State Government make an amendment in the Sales-tax Act or issue notification through Government orders to the effect that the sales-tax deferred under the scheme (i.e., sales-tax deferrel scheme) shall be treated as actually paid, such a deeming provision will meet the requirements of section		

* The clarifications issued vide Circular Nos. 250 and 220 are on the basis of the then clause (j) of Rule 6DD of the Income-tax Rules, 1961. The said clause has been omitted w.e.f. 25-7-1995 and hence clarifications issued in the said Circulars will not apply from the said date. However, in view of insertion of new clauses (j), (k) & (l)/(m) in Rule 6DD of the Income-tax Rules, 1961, w.e.f. 1-12-95/25-7-95, no disallowance u/s. 40A(3) shall be made in the circumstances specified in the said clauses. For the text of the said clauses, refer item (iii) on page 131.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	43B. The Board have decided that where amendments are made in the sales-tax laws or notification is issued on these lines, the statutoryliability shall be treated to have been discharged for the purposes of section 43B of the Act	496 Dt. 25-09-87 674 Dt. 29-12-93	169 ITR (St.) 53. 205 ITR (St.) 119.
B.	Section 44AB — Tax audit —		
	(i) Tax auditor would have to carry out the audit u/s. 44AB in respect of the period covered by the previous year i.e., relevant financial year	561 Dt. 22-05-90	184 ITR (St.) 2.
	(ii) As far as "Kachha arahtias" are concerned, turnover does not include the sales effected on behalf of the principals and only the gross commission has to be considered for the purposes of section 44AB	452 Dt. 17-03-86	158 ITR (St.) 195.
C.	For assessment year 1998-99, the audit report as required u/s. 44AD(6), 44AE(7) & 44AF(5), if not filed by the specified date as stipulated u/s. 44AB; could be filed any time before the completion of assessment and in all such cases the provisions of sections 44AD(6), 44AE(7) and 44AF(5) will be deemed to have been complied with	3 Dt. 9-02-2001	247 ITR (St.) 53.
D.	Section 44C—Deduction of Head Office expenditure in case of non-residents—Treatment of technical expenses when being remitted to Head Office of a non-resident enterprise by its branch office in India—Guidelines	649 Dt. 31-03-93	200 ITR (St.) 230.
E.	Section 44D—Restrictions placed by section 44D will apply for the *entire* previous year relevant to assessment year 1977-78 and onwards	282 Dt. 22-09-80	127 ITR (St.) 4.
F.	Income from tea grown and sold in India will continue to be computed in terms of rule 8 of I.T. Rules	310 Dt. 29-07-81	132 ITR (St.) 5.
G.	Allowability of expenditure incurred on or after 1-3-1984 by sugar factories in case of development programmes—Effect of withdrawal of agricultural development allowance u/s. 35C, by the Finance Act, 1984	578 Dt. 12-09-90	185 ITR (St.) 106.
H.	Special provisions relating to certain companies — Book profit — Computation of — Effect of *Explanation* (iii) to section 115J . .	680 Dt. 21-02-94	206 ITR (St.) 297.
I.	Provisions governing transfer price in an international transaction — Regarding [Sections 92 and 92A to 92F*]	12 Dt. 23-08-01	251 ITR (St.) 15.
J.	Taxation of Business Process Outsourcing Units in India. . . .	1 Dt. 2-01-04	265 ITR (St.) 23.
G.	CAPITAL GAINS:		
1.	**Exemptions:**		
A.	An assessee shall be entitled to exemption u/s. 54 even in respect of self-occupied residential house annual value of which is 'nil' under the head "Income from house property" by virtue of section 23(2) read with section 24	538 Dt. 13-07-89	179 ITR (St.) 23.
B.	If the amount of capital gain for the purposes of section 54, and the net consideration for the purposes of section 54F, is appropriated towards purchase of a plot of land and also towards construction of a residential house thereon, the aggregate cost *(including cost of land)* should be considered for determining the quantum of deduction u/s. 54/54F, provided that the acquisition of plot of land and also the construction thereon are completed within the period specified in these sections	667 Dt. 18-10-93	204 ITR (St.) 103.
C.	In respect of flats allotted under Self-financing Scheme of the Delhi Development Authority, the allottee gets title to the property on the issuance of the allotment letter. The Board has clarified that "in such an event, allotment of flats under the said scheme shall be treated as cases of construction for the purpose of		

* For computation of income from international transaction – Reference to Transfer Pricing Officer and his role, refer instruction No. 3, dt. 20-5-03 [261 ITR (St.) 51].

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	section 54/54F"	471 Dt. 15-10-86	162 ITR (St.) 41.
	If the terms of the schemes of allotment & construction of flats/ houses by the co-operative societies/other institutions are similar to those mentioned in para 2 of Board's Circular No. 471, dt.15-10-86 (referred to above), such cases may also be treated as cases of construction for the purposes of section 54/54F ..	672 Dt. 16-12-93	205 ITR (St.) 47.
	D. Capital asset converted into stock-in-trade —		
	(1) for the purpose of exemption u/s. 54E the time of 6 months will be counted from the date of conversion into stock-in-trade and not from the date of its sale as stock-in-trade	560 Dt. 18-05-90	184 ITR (St.) 1.
	(2) for the purpose of exemption u/s. 54EA, 54EB, and 54EC, the time limit of 6 months will be counted from the date of such stock-in-trade is sold or transferred, in the terms of section 45(2), and not from the date of its conversion into stock-in-trade	791 Dt. 02-06-2000	243 ITR (St.) 155.
	E. If the assessee invests the earnest money or the advance received in specified assets before the date of transfer of asset, the amount so invested will qualify for exemption u/s. 54E	359 Dt. 10-05-83	143 ITR (St.) 2.
2.	**General:**		
	A. Transaction of lending of shares or any other security under the 'Securities Lending Scheme, 1997' would not result in "transfer" for the purpose of invoking the provisions relating to capital gains under the Income-tax Act, provided the shares/securities lent and received back are of the same company/institution. The distinctive numbers of the such shares/securities received back may, however, be different	751 Dt. 10-02-97	224 ITR (St.) 1.
	B. National Defence Gold Bonds, 1980-Transfer of gold after redemption — For the purposes of the computation of capital gains, cost of acquisition of gold would be the market value of the bonds on the date of redemption	415 Dt. 14-03-85	152 ITR (St.) 205.
	C. In cases where sales proceeds of the asset transferred have not been received by the assessee for any reason, the I.T.O./AO may not formally extend time for payment u/s. 140A & 220 but he may not impose penalty for non-payment of tax	119 Dt. 26-09-73	92 ITR (St.) 4.
	D. For determination of date of transfer of shares or units or other securities listed in a recognised stock exchange in India and also holding period to be reckoned u/s. 2(42A) — For the gist of this Circular, refer Note 1 on page 139	704 Dt. 28-04-95	213 ITR (St.) 7.
	E. Computation of capital gains in respect of securities held in dematerialised form-Determination of 'date of transfer' & 'period of holding of securities' held in dematerialised form u/s. 45(2A)–		
	(1) FIFO method will be applied in respect of the dematerialised holdings. However, once a sale is linked with an earlier purchase, for determination of their "date of transfer" & "period of holdings", Board's Circular No. 704 [Referred to above] will be applicable.		
	(2) Where an investor has more than one security account in the depository system, FIFO method will be applied accountwise.		
	(3) If in an existing account of dematerialised stock, old physical stock is dematerialised and entered at a later date, under the FIFO method the basis for determining the movement out of the account is the date of entry into the account	768 Dt. 24-06-98	232 ITR (St.) 5.
	F. Only that amount of long-term capital gains which is included in the total income would be subject to tax at a prescribed flat rate u/s. 112. Thus, if there was loss of Rs. 20,000 from business and there is long-term capital gains of Rs. 1,00,000, then after setting off of business loss of Rs. 20,000 against long-term capital gains u/s. 71(2), only Rs. 80,000 would remain under the head "Capital gains" to be included in the gross total income or total income. The flat rate of tax u/s. 112 will be applicable in respect of Rs. 80,000 and not Rs. 1,00,000, since the amount of long-term capital gains included in the total income is Rs. 80,000	721 Dt. 13-09-95	215 ITR (St.) 113.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

Gist of circular	*Circular No.*	*Refer*
G. Taxability of unutilised deposit under the Capital Gains Accounts Scheme, 1988 — In the case of an individual who dies before the expiry of the stipulated period u/s. 54, 54B, 54D, 54F & 54G, unutilised deposit amount cannot be taxed in the hands of the deceased. This amount is not taxable in the hands of the legal heirs also as the unutilised portion of the deposit does not partake of the character of income in their hands but is only a part of the estate devolving upon them	743 Dt. 6-05-96	219 ITR (St.) 50.
H. INCOME FROM OTHER SOURCES:		
A. Deferred dividend is taxable in the previous year in which it is so declared	210 Dt. 25-02-77	108 ITR (St.) 2.
B. Dividend received from United Kingdom — Gross dividend and not the net dividend is to be taxed in India	369 Dt. 17-09-83	145 ITR (St.) 9.
C.* 1. Interest on cumulative deposit schemes of private sector undertaking should be taxed on accrual basis annually	409 Dt. 12-02-85	153 ITR (St.) 4.
Interest on cumulative deposit schemes of Government undertakings should be taxed on accrual basis annually	371 Dt. 21-11-83	146 ITR (St.) 9.
2. Interest on reinvestment deposit schemes/recurring deposit schemes/cash certificates of banks, etc. — Interest for each year calculated at the stipulated rate will be taxed as income accrued in that year with a right to claim deduction u/s. 80L	243 Dt. 22-06-78	114 ITR (St.) 29.
3. Interest on 'Kisan Vikas Patras' has to be assessed to income-tax on accrual basis. Accrued interest is to be calculated on the basis of table	687 Dt. 19-08-94	209 ITR (St.) 74.
D. Lump sum payment made gratuitously or by way of compensation or otherwise to widow/legal heirs of an employee, who dies while in service, will not be taxable under the Act	573 Dt. 21-08-90	185 ITR (St.) 31.
E. Ex-gratia payment received, *by a person* or his legal heir, from the Central Government/State Government/Local Authority/Public Sector Undertaking, *consequent upon injury* to the person/death of a family member, while on duty, will not be taxable under the Act	776 Dt. 8-06-99	238 ITR (St.) 20.
F. "Foreign Exchange Entitlement Fee" under the Ceylon Exchange Control Laws is not deductible expenses u/s. 57(iii)	156 Dt. 23-12-74	98 ITR (St.) 96.
G. Commission earned by insurance agents of Life Insurance Corporation — Allowance of expenditure — For gist of this Circular, refer sub-item (A) of item (29) on page 126	648 Dt. 30-03-93	201 ITR (St.) 4.
H. Deduction for expenses on commission payable to agents of Standardised Agency System/P.O. Time Deposits/Unit Trust of India/ Notified mutual funds u/s. 10 (23D) — For gist of this Circular, refer	594 Dt. 27-02-91	188 ITR (St.) 105.
sub-items (B) & (C) of item (29) on page 126	677 Dt. 28-01-94	205 ITR (St.) 331.
I. DEDUCTIONS FROM GROSS TOTAL INCOME/REBATE FROM INCOME-TAX:		
A. **Under section 80C/88:**		
(a) The premia paid on the life insurance policies on lives of adult children, including a married daughter, will be eligible for deduction u/s. 80C & rebate u/s. 88	574 Dt. 22-08-90	185 ITR (St.) 31.
(b) Contribution to following schemes will be eligible for deduction u/s. 80C subject to limit prescribed u/s. 80C(4):		
1. Karnataka State Employees' Group Insurance Scheme, 1981	518 Dt. 9-08-88	173 ITR (St.) 58.
2. Special Frontier Force Group Insurance Scheme	404 Dt. 15-01-85	151 ITR (St.) 47.

* Clarification regarding taxability of income relating to Deep Discount Bonds [Vide Letter F. No. 225/45/96-ITA. II, Dated 12-3-1996 of IDBI]—It is clarified that the difference between the issue price and the redemption price of Deep Discount Bonds will be treated as interest income assessable under the Income-tax Act. On transfer of Bonds before maturity, the difference between the sale consideration and issue price will be treated as Capital Gains/Loss if the assessee purchased them by way of investment. However, in the case of an assessee who deals in purchase and sale of Bonds, Securities, etc., the profit or loss shall be treated as trading profit or loss.

The decision on other issues, referred to in your letter shall be communicated in due course.

For modified tax treatment of Deep Discount Bonds and STRIPS issued after 15-2-02, refer Circular No. 2, dt. 15-2-02: 254 ITR (St.) 241. The said modified tax treatment will not apply to existing bonds which are issued before issue of this Circular [PIB Press Release, dt. 20-3-02: 254 ITR (St.) 302].

Tax is required to be deducted at source u/s. 193 or 195 only at the time of redemption of Deep Discount Bonds [Circular No. 4, dt. 13-5-04: 268 ITR(St.) 208].

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

Gist of circular	*Circular No.*	*Refer*
3. Maharashtra State Government Employees' Group Insurance Scheme, 1982	337 Dt. 4-05-82	137 ITR (St.) 4.
4. Central Government Employees' Insurance Scheme	233 Dt. 5-12-77	117 ITR (St.) 11.
5. Family Pension Fund established by a scheme under the Employees' Provident Fund and Family Pension Fund Act, 1952	194 Dt. 25-03-76	109 ITR (St.) 116.
(c) Accrued interest on NSC VI/VIII Issues also eligible for rebate u/s. 88 — Vide Para 6(6)(b) on page 122 of the circular.	9 Dt. 18-11-03	264 ITR (St.) 93.
(d) Repayment of loans taken for the purchase or construction of a residential house property, the construction of which is not completed by the end of the previous year relevant to assessment year — no deduction will be admissible in that assessment year	498 Dt. 4-11-87	169 ITR (St.) 54.
B. **Under section 80CCA:**		
(a) Amount received under National Savings Scheme, 1987, 'Jeevan Dhara' & 'Jeevan Akshay' policies of L.I.C. by the legal heirs of an assessee after his death will not be chargeable to tax u/s. 80CCA(2)	532 Dt. 17-03-89	176 ITR (St.) 327.
(b) Amounts paid to an assessee on closure of account under the National Savings Scheme, 1987 on the expiry of 3 years is taxable u/s. 80CCA(2)	534 Dt. 7-04-89	177 ITR (St.) 33.
C. **Under the then section 80DD** *(Applicable upto assessment year 1998-99):* It is clarified that the deduction u/s. 80DD is statutory in nature. Therefore, as long as the conditions mentioned in the section are fullfilled, and the assessee has incurred any expenditure on medical treatment, etc., of the handicapped person, the deduction as envisaged in the section will be allowable in full	702 Dt. 3-04-95	213 ITR (St.) 5.
D. **Under section 80E:**		
(a) Deduction not available for courses in Humanities, Social Sciences, Commerce, Accountancy or Law [Vide Para 36.2 of the Circular on page 36]	684 Dt. 10-06-94	208 ITR (St.) 8.
(b) For the purposes of section 80E, graduate or post-graduate studies in engineering would include such studies in architecture	688 Dt. 23-08-94	209 ITR (St.) 75.
E. **Under section 80G:**		
(a) Donations to Prime Minister's National Relief Fund — Money order coupons duly receipted may be treated as sufficient evidence of the donations	178 Dt. 23-09-75	101 ITR (St.) 128.
(b) Donations to the National Defence Fund, the Army Central Welfare Fund, the Indian Naval Benevolent Fund & the Air Force Central Welfare Fund made by the employees of the Central Government, State Governments, Public Sector Undertakings, Private Sector Companies and Corporations & local authorities, through their respective employers/organisations, is admissible as deduction u/s. 80G on the basis of the certificate issued by the DDO/employer in this behalf	777 Dt. 1-07-99 7 Dt. 21-03-01	238 ITR (St.) 20. 248 ITR (St.) 268.
(c) Donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund made by the employees of the Central Government, State Government, public sector undertakings, private sector companies and corporations and local authorities, through their respective employers/organisations, is admissible as deduction u/s. 80G on the basis of the certificate issued by the DDO/ employer in this behalf	782 Dt. 12-11-99	240 ITR (St.) 182.
F. **Under section 80GG:** The total income would be the total income of the assessee after allowing all deductions except the one provided u/s. 80GG itself	327 Dt. 8-02-82	135 ITR (St.) 6.
G. **Under section 80HH:** If the process involved is not merely conversion of standing trees into fire wood but also manufacture of new saleable commodities, the benefit of deduction u/s. 80J & 80HH would be available	329 Dt. 22-02-82	135 ITR (St.) 7.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
H.	**Under section 80HHB:**		
	(a) The consideration received in non-convertible rupees from bilateral account countries will be treated at par with consideration received in any other convertible foreign exchange [See also item U. (a) on page 328].	563 Dt. 23-05-90	184 ITR (St.) 3.
	(b) RBI/ECGC bonds issued by way of settlement of claims of projects in Iraq will be treated as convertible foreign exchange brought into India for the purposes of section 80HHB	711 Dt. 24-07-95	215 ITR (St.) 2.
I.	**Under section 80HHC:**		
	(a) In the case of taxpayer engaged in the business of growing and manufacturing tea, deduction u/s. 80HHC is to be allowed after the income chargeable to tax under the head "Profits and gains of business or profession" has been computed under rule 8 of I.T. Rules	600 Dt. 23-05-91	189 ITR (St.) 126.
	(b) Examples for allowing deduction u/s. 80HHC as amended by the Finance Act, 1990 — CCS & duty draw backs are taxable as revenue receipts for all the years	564 Dt. 5-07-90 571 Dt. 1-08-90	184 ITR (St.) 137. 185 ITR (St.) 9.
	(c) Receipts of sales proceeds in rupees in respect of protocol exports is eligible for deduction u/s. 80HHC	562 Dt. 23-05-90	184 ITR (St.) 3.
	(d) The provisions of the proviso to section 80HHC(1), as substituted by the Finance Act, 1985 (w.e.f. 1-4-86), will not be infringed if dividends are distributed by the assessee out of such reserve . .	463 Dt. 11-07-86	160 ITR (St.) 60.
	(e) For availing the benefit of deduction u/s. 80HHC, for export of granite or other rocks, it is necessary that it is not only cut into blocks but also polished before it is exported	693 Dt. 17-11-94	211 ITR (St.) 25.
	(f) When rough granite is cut to dimensional blocks of uniform colour and size, it not only undergoes mechanical process of cutting, but also, a certain amount of dressing and polishing is involved to remove various natural flaws such as colour variations, grain variations, joints, fissures, moles, patches, hair line cracks, etc. The profits derived from the export of such granite dimensional blocks would, accordingly, be eligible for deduction u/s. 80HHC [*Circular No. 693, dt. 17-11-94 at (e) above modified*]	729 Dt. 1-11-95	216 ITR (St.) 141.
	(g) It is clarified that the submission of Auditor's Report in the old format of Form No. 10CCAC in place of the new format [Vide Income-tax (Fifteenth Amendment) Rules, 1992] is a defect which can be corrected by filing the Auditor's Report in the revised format during the course of assessment proceedings	1 Dt. 17-01-2001	247 ITR (St.) 50.
I-1.	**Under section 80HHE:**		
	Explanation to section 80HHE(1) was inserted w.e.f. 1-4-2001 is only clarifactory in nature and hence it is applicable w.e.f. 1-4-1991, i.e., the date on which section 80HHE came into force	3 Dt. 12-02-04	266 ITR (St.) 54.
J.	**Under section 80-IA:**		
	(1) Conditions of maintaining and operating a new infrastructure facility undertaken by an enterprise as laid down in section 80-IA (4A) will not apply to a Build-Own-Lease-Transfer (B-O-L-T) scheme formulated by the Indian Railways and such an enterprise will be eligible for deduction u/s. 80-IA	733 Dt. 3-01-96	217 ITR (St.) 8.
	(2) The Board has clarified that 'structures' at ports for storage, loading and unloading, etc., will fall under the definition of "port" subject to conditions specified in para 2 of the circular . .	793 Dt. 23-06-2000	244 ITR (St.) 103.
	(3) The Board has clarified that, such projects, for which agreements have been entered into on or after 1-4-1995, but on or before 31-3-2001, and which have been notified by the Board on or before 31-3-2001, would continue to be exempt, subject to the fulfilment of conditions prescribed in section 80-IA(4)(i)(b), as it existed prior to its substitution by the Finance Act, 2001 . .	7 Dt. 26-08-2002	257 ITR (St.) 28.
K.	**Under section 80-IB:**		
	The Board has clarified that the word "State" in section 80-IB(4) includes the Union Territories specified in the Eighth Schedule . .	788 Dt. 11-04-2000	243 ITR (St.) 56.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
L.	**Under section 80-J:** Deduction u/s. 80J should not be reduced proportionately with reference to the period for which the business of the undertaking, ship or hotel was not carried on during the relevant previous year	378 Dt. 3-03-84	149 ITR (St.) 1.
M.	**Under section 80L:**		
	(a) Inter-se priority for adjustment to claim deduction u/s. 80L(1) and the provisos thereto will be at the option of the assessee [Refer para 29.8 of the circular]	528 Dt. 16-12-88	176 ITR (St.) 183.
	(b) Interest on reinvestment deposit schemes, etc. of banks — Accrued interest eligible for deduction u/s. 80L	243 Dt. 22-06-78	114 ITR (St.) 29.
	(c) Interest on deposits with Nationalised banks qualify for deduction u/s. 80L(1)(vi)	64 Dt. 25-08-71	82 ITR (St.) 5.
N.	**Under section 80M:** Where a part of the inter-corporate dividend income is utilised for setting off loss under any other head, relief u/s. 80M is to be allowed on the dividend income before such set off subject to overall limit u/s. 80A(2) . .	58 Dt. 15-04-71	80 ITR (St.) 200.
O.	**Under section 80O:**		
	(a) Guidelines for approval of agreements u/s. 80-O-Also refer Circular Nos. 253:126 ITR (St.) 21; & 533: 177 ITR (St.) 33 . .	187 Dt. 23-12-75	102 ITR (St.) 83.
	(b) As long as the technical and professional services are rendered from India and are received by a foreign Government or enterprise outside India, deduction u/s. 80-O would be available to the person rendering the services even if the foreign recipient of the services utilises the benefit of such services in India . .	700 Dt. 23-03-95	213 ITR (St.) 78.
	(c) Receipt of brokerage by a reinsurance agent in India from the gross reinsurance premia before remittance in convertible foreign exchange to his foreign principals will be eligible for deduction u/s. 80-O	731 Dt. 20-12-95	217 ITR (St.) 5.
P.	**Under section 80P:**		
	(a) The provisions of section 80P will also be applicable in respect of Regional Rural Banks	319 Dt. 11-01-82	134 ITR (St.) 165.
	(b) Co-operative society engaged in a cottage industry — Deduction u/s. 80P(2)(a)(ii)-Clarification regarding	722 Dt. 19-09-95	215 ITR (St.) 115.
Q.	**Under section 80Q:** Deduction u/s. 80Q is to be allowed for five years commencing from the assessment year 1992-93 provided the other conditions mentioned in the section are satisfied	706 Dt. 26-06-95	214 ITR (St.) 2.
R.	**Under section 80RR:** Script writer can be regarded as "playwright" and similarly "director" can be treated as an "artist" for the purposes of section 80RR. However, a producer would not be entitled to deduction u/s. 80RR, because he does not fall under any of the categories mentioned in the said section . .	675 Dt. 3-01-94	205 ITR (St.) 329.
S.	**Under section 80RRA:**		
	(a) Scope of the tax concession under section 80RRA	356 Dt. 17-03-83	142 ITR (St.) 117.
	(b) Procedure regarding grant of approval u/s. 80RRA	705 Dt. 20-06-95	214 ITR (St.) 1.
T.	**Under section 80U:**		
	(a) Employers would be entitled to give deduction u/s. 80U from the income under the head "Salaries" while deducting tax at source thereon in any financial year on the production of a certificate from the I.T.O. authorising such deduction. The certificate once issued will continue to be in force till it is withdrawn by the I.T.O. or employee leaves the employment of the employer	272 Dt. 27-05-80	124 ITR (St.) 3.
	(b) Guidelines for exemption u/s. 80U—Also refer circular No. 375, dt. 2-1-84:146 ITR (St.) 61	246 Dt. 20-09-78	116 ITR (St.) 26.
U.	**General:**		
	(a) "Convertible foreign exchange", for the purposes of section 80HHB, 80HHC & 80-O, will also include amounts received in non-convertible rupees from bilateral account countries and receipts in Indian Rupees under Government to Government		

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

Gist of circular	*Circular No.*	*Refer*
credit. Remittances from Nepal & Bhutan are, however, excluded [For section 80HHB, see also sub-item 'H' on page 327]	575 Dt. 31-08-90	185 ITR (St.) 32.
(b) Approval of hotels for the purposes of claiming the various tax concession envisaged in the Income-tax Act	383 Dt. 22-06-84	148 ITR (St.) 13.
J. MISCELLANEOUS:		
A. **Firms:**		
1. *In relation to assessment year 1993-94:* The set off of loss envisaged u/s. 70 and 71 may be allowed for the assessment year 1993-94 in the hands of the firm in respect of unabsorbed business losses brought back to the firm. Thus, if there are unabsorbed business losses in the hands of the partners to whom such losses had been apportioned for the assessment years 1992-93 and earlier years, the same can be set off against income of the firm under the all heads of income of firm for the assessment year 1993-94 subject to the condition that the partner continues to be a partner in the said firm	703 Dt. 18-04-95	213 ITR (St.) 6.
2. The Board has decided that for the assessment years 1993-94 to 1996-97 deduction for remuneration to working partners may be allowed u/s. 40(b)(v) on the basis of the clauses of the type mentioned below incorporated in the partnership deed: (a) the partners have agreed that the remuneration to a working partner will be the amount of remuneration allowable under the provisions of sec. 40(b)(v) of the Income-tax Act; or (b) the amount of remuneration to working partner will be as may be mutually agreed upon between partners at the end of the year. From assessment year 1997-98 and onwards, no deduction u/s. 40(b)(v) will be admissible unless the partnership deed either specifies the amount of remuneration payable to each individual working partner or lays down the manner of quantifying such remuneration	739 Dt. 25-03-96	218 ITR (St.) 131.
B. **Losses:**		
1. Order of set off/carry forward and set off of losses—The effect has first to be given to the provisions of section 71, i.e., where in respect of any assessment year, there is income under a head, the loss, if any, under any other head for that assessment year should first be set off against it before the unabsorbed losses of earlier years under the former head can be set off against such income. This position is, however, subject to the exceptions provided in Chapter VI of the Act which prohibit inter-head adjustments with regard to certain losses	587 Dt. 11-12-90	187 ITR (St.) 48.
2. Effect of the order passed by the Board for Industrial and Financial Reconstruction under a scheme for rehabilitation of sick units—Vide Circular No. 523, dt. 5-10-88 : 174 ITR (St.) 1 & Circular No. 576, dt. 31-8-90 : 185 ITR (St.) 48. These circulars have been withdrawn w.e.f. 30-12-93 [Cases already decided in accordance with Circular Nos. 523 & 576, were, however, not required to be re-opened]	683 Dt. 8-06-94	208 ITR (St.) 98.
3. Section 72A(2)(ii)—Certificate from specified authority in respect of adequacy of steps taken for rehabilitation/revival of business of amalgamating company would be necessary for each of the years during which the revival scheme is implemented. The certificate will also be required for each of the assessment years in which carry forward and set off of unabsorbed loss, etc. of the amalgamating co. is claimed by the amalgamated co. . .	350 Dt. 29-09-82	138 ITR (St.) 44.
C. **Return/Assessment:**		
1. Where the last day for filing return of income/loss is a day on which (I.T.) office is closed, the assessee can file the return on the next working day and, in such cases, the return will be considered		

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	to have been filed within the specified time limit. This clarification also applies to the returns under other direct tax enactments. The above clarification have been issued in view of section 10 of the General Clauses Act, 1897	639 Dt. 13-11-92	199 ITR (St.) 1.
2.	Provisions of clause (v) of the 1st proviso to section 139(1) is applicable to holders of credit cards other than Kisan Credit Cards	795 Dt. 01-09-2000	245 ITR (St.) 61.
	The Board has clarified that the towns and urban agglomerations of the State of Jammu and Kashmir specified in the Circular are covered by the Notification No. 409(E)/410(E), dt. 10-5-01, and the one-by-six scheme shall be applicable to these towns and urban agglomerations	10 Dt. 19-07-01	250 ITR (St.) 82.
3.	An individual deriving income from growing and curing coffee with or without mixing chicory or other flavouring ingredients, and not covered by 1st proviso to section 139(1), would not be obliged to file his return of income, if his income from growing and curing of coffee is Rs. 2,00,000 or less. Where such individual, not covered by the 1st proviso to section 139(1), derives income from growing, curing, roasting and grounding, with or without mixing chicory or other flavouring ingredients and his income from such activity is Rs. 1,25,000 or less he would not be obliged to file his return of income	10 Dt. 24-12-03	265 ITR (St.) 36.
4.	Scope of *prima-facie* disallowance u/s. 143(1)(a). For gist of this circular refer page 174 of ITRR 2000-01	689 Dt. 24-08-94	209 ITR (St.) 75.
5.	Summary assessment scheme—Steps taken for accelerating the pace of assessments	201 Dt. 5-07-76	104 ITR (St.) 51.
6.	Assessment of political parties—Regarding filing of returns . .	412 Dt. 2-03-85	152 ITR (St.) 202.
7.	The Board has clarified that an assessee, being an owner of power-looms, files an income-tax return for the first time for the assessment year 2004-05, the same shall not be selected for scrutiny, provided the assessee makes a true disclosure of his stock of yarn and finished goods not exceeding Rs. 20,000 per power-loom, and furnishes along with the return of income evidence in support of ownership of power-looms in his name . .	4 Dt. 14-05-03	261 ITR (St.) 50.
8.	Reopening of assessments on account of retrospective amendment made in section 80HHC in respect of "Counter sale" to foreign tourists in shops and emporia, etc.—will not be done to check whether such counter sale is included in the relief u/s. 80HHC. But where the income-tax records show it is included, the past assessments will be rectified on the basis of retrospective amendments	624 Dt. 23-01-92	193 ITR (St.) 109.
9.	The Board has directed that the assessments where the proceedings have become final before 1-4-2001 should not be re-opened u/s. 147 to disallow expenditure incurred to earn exempt income by applying the provisions of newly inserted section 14A	11 Dt. 23-07-01	250 ITR (St.) 84.
10.	The Board has clarified that no proceedings u/s. 147 or 263 should be initiated for the assessment year(s) prior to assessment year 2002-03 in the case of assessees earning income from manufacture of rubber and/or coffee, for determining the income liable to income-tax, if the assessee has already paid agricultural income-tax on the whole of such income	5 Dt. 22-05-03	261 ITR (St.) 158.
D.	**Appeals:**		
	Giving of appeal effects, etc. promptly	209 Dt. 11-01-77	108 ITR (St.) 1.
E.	**Rectification:**		
1.	*Prima-facie* adjustments made u/s. 143(1)(a)—Scope of section 154 & disallowance u/s. 43B—For gist of these clarifications, refer note 5 on page 130 of this ITRR	601 Dt. 4-06-91	190 ITR (St.) 4.
2.	The sums disallowed as *prima-facie* inadmissible u/s. 143(1)(a), in the absence of requisite evidence of payment cannot be subsequently allowed by rectification u/s. 154—Also refer circular No. 669 hereafter	581 Dt. 28-09-90	186 ITR (St.) 2.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	Where the sums referred to in the 1st proviso under section 43B had in fact been paid on or before the due dates mentioned therein, but the evidence therefor had been omitted to be furnished along with the return, the Assessing Officer can entertain application u/s. 154 for rectification of the intimation u/s. 143(1)(a) or order u/s. 143(3). Circular No. 581, stands modified to the above extent	669 Dt. 25-10-93	204 ITR (St.) 105.
3.	Order u/s. 119(2)(a)/(b)—Penalties based on cancelled/annulled assessments —Authorisation by the CBDT for cancelling such penalties u/s. 154 beyond the time limit prescribed u/s. 154(7) . .	87 Dt. 19-06-72 91 Dt. 30-08-72	89 ITR (St.) 141. 89 ITR (St.) 142.
4.	Where a valid application for rectification has been filed by the assessee within the statutory time limit but was not disposed of by the authority concerned within the time specified u/s. 154(7), it may be disposed of by that authority even after the expiry of the statutory time limit	73 Dt. 7-01-72	84 ITR (St.) 4.
5.	The Board's authorisation for taking action u/s. 154 beyond the time limit fixed u/s. 154(7) in cases of protective assessments which required to be cancelled	71 Dt. 20-12-71	83 ITR (St.) 91.
6.	Where an assessee moves an application u/s. 154 pointing out that in the light of a later decision of the Supreme Court pronouncing the correct legal position, a mistake has occurred in any of the completed assessments in his case, the application shall be acted upon, provided the same has been filed within the time & is otherwise in order	68 Dt. 17-11-71	83 ITR (St.) 6.
7.	Notifications under sections 10(23C)(iv) and 35(1)(ii)/(iii) were issued at a subsequent date but which is applicable to the assessment year(s) involved in the application. In assessments completed before the issue of notification there is a mistake apparent from the record which can be rectified u/s. 154. However, while disposing of the rectification applications, the Assessing Officer must ensure that the conditions subject to which the approval was granted are satisfied	725 Dt. 16-10-95	216 ITR (St.) 60.
F.	**Refunds:**		
	The Board has decided to do away with the discharge of the payee (refundee) on the reverse of account payee Income-tax Refund Order where the said Refund Order is issued in form of a MICR cheque . .	773 Dt. 15-02-99	236 ITR (St.) 220.
	Order u/s. 119(2)(b)—Condonation of delay in filing refund claims—		
1.	Authorisation to the Assessing Officers to admit belated refund claims u/s. 237 arising as a result of tax deducted/collected at source and advance tax payments where the amount of such refund does not exceed Rs. 1 lakh for any assessment year subject to specified conditions —W.e.f. 1-11-93	670 Dt. 26-10-93	204 ITR (St.) 154.
2.	In connection with Board's order u/s. 119(2)(b) [F. No. 225/208/93-ITA II, dt. 12-10-1993] and Circular No. 670 (referred to above), the Board has clarified that delay in making refund claim as well as claim of carry forward of losses, both can be condoned in cases where returned income is a loss, provided other conditions [other than condition (ii)] specified in the said order are satisfied	8 Dt. 16-05-01	249 ITR (St.) 112.
G.	**Interest:**		
1.	Levy of interest u/s. 220(2) when the original assessment is set aside/cancelled—No interest u/s. 220(2) can be charged pursuant to the original demand notice. Interest can be charged only after the expiry of 30/35 days from the date of service of demand notice pursuant to reframed assessment order	334 Dt. 3-04-82	135 ITR (St.) 10.
2.	Interest u/s. 244A shall be payable to assessee from 1st April of the assessment year to the date of granting refund. However, u/s. 244A(2), any period of delay attributable to the assessee shall be excluded [Refer Para 11.4 on page 49 of the circular]	549 Dt. 31-10-89	182 ITR (St.) 1.
3.	If the last day of payment of any instalments of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable u/s. 234B/234C would not be charged	676 Dt. 14-01-94	205 ITR (St.) 330.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

Gist of circular	*Circular No.*	*Refer*
4. The Board has clarified that all requests for waiver of interest u/s. 234A, 234B & 234C are to be considered by the Chief Commissioner of Income-tax and the Director-General of Income-tax within the parameters laid down by the Board's order dt. 23-5-96* [Refer 225 ITR (St.) 101], read with the modification dt. 30-1-97*	783 Dt. 18-11-99	240 ITR (St.) 183.
5. The Board has clarified that "All companies are liable for payment of advance tax having regard to the provisions contained in section 115JB. Consequently, the provisions of sections 234B/234C for interest on defaults in payment of advance tax/deferment of advance tax would also be applicable where facts of the case warrant"	13 Dt. 9-11-01	252 ITR (St.) 50.
H. **Penalties:**		
The Board has clarified that the "genuine hardship" referred to in section 273A(4) should exist at the time at which the application u/s. 273A(4) is made by the assessee and it should so exist even at the time of passing of order u/s. 273A(4) by the Commissioner	784 Dt. 22-11-99	241 ITR (St.) 1.
I. **General:**		
1. Exercise of discretion u/s. 220(6) to treat the assessee as not being in default in respect of the amounts disputed in first appeal pending before Deputy Commissioner (Appeals)/Commissioner (Appeals)	530 Dt. 6-03-89 589 Dt. 16-01-91	176 ITR (St.) 240. 187 ITR (St.) 79.
2. Indian Nationals having income arising in Pakistan-assessment proceedings/collection of tax — Clarification regarding	25 Dt. 2-07-69 251 Dt. 29-01-79	73 ITR (St.) 23. 116 ITR (St.) 46.
3. Amount borrowed or repaid on hundi—Section 69D-Provisions of section 69D are not applicable to certain types of Darshani hundi transactions	208 Dt. 15-11-76 221 Dt. 6-06-77	107 ITR (St.) 195. 108 ITR (St.) 10.
4. Mode of taking or accepting/repayments of certain loans/deposits — Sections 269SS/269T:		
Where a "Kachha Arhatiya" sells goods belonging to agriculturist, the sale proceeds thereof which remain with him cannot be regarded as deposit made by the agriculturist with the "Kachha Arhatiya". Therefore, the repayment of such sale proceeds does not fall within purview of section 269T	556 Dt. 23-02-90	183 ITR (St.) 92.
Increased monetary ceiling limit of Rs. 20,000 u/s. 269SS & 269T will apply to loan or deposit taken or accepted or, repayment of deposit together with or without interest or interest alone, on or after 1-4-1989	522 Dt. 18-08-88	173 ITR (St.) 44.
The payment of interest of Rs. 10,000 *(Rs. 20,000 w.e.f. 1-4-1989)* or more on deposits, will have to be made in the manner provided in section 269T	479 Dt. 16-01-87	164 ITR (St.) 154.
5. Non-residents:		
(a) Individuals normally resident in Kuwait and returning to India after 2-8-90, would be eligible for exemption u/s. 10(4)(ii) in respect of such accounts maintained upto 30-6-1991	590 Dt. 30-01-91 604 Dt. 11-06-91	187 ITR (St.) 144. 190 ITR (St.) 12.
(b) Indian crew members of foreign-going Indian ship will be treated as "Non-resident" if they are on board of such ship outside the territorial waters of India for 182 days or more during any year	586 Dt. 28-11-90	186 ITR (St.) 167.
(c) Where shares in Indian companies are allotted, in consideration of the machinery & plant, to a non-resident, the income embodied in the payments would be received in India as the shares in the Indian companies are located in India and would accordingly be liable to income-tax as income in India	382 Dt. 4-05-84	153 ITR (St.) 3.
(d) 'Overseas corporate body' is foreign company. Income by way of interest received by overseas corporate body is liable to flat rate of tax u/s. 115A(1)(ia)	473 Dt. 31-10-86	162 ITR (St.) 57.
(e) The mere existence of an agency established by a non-resident in India will not be sufficient to make the non-resident liable to tax, if the sole function of the agency is to purchase goods for export	163 Dt. 29-05-75	99 ITR (St.) 187.

* For the gist of the Board's order dt. 23-5-96 read with the modification dt. 30-1-97, in relation to reduction or waiver of interest, refer page 198.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 *[Contd.]:*

	Gist of circular	*Circular No.*	*Refer*
	(f) A non-resident assessee engaged in the business of carriage by shipping of passengers and goods etc., who exercises his option u/s. 172(7) to get his total income assessed in the normal course [i.e., not u/s. 172 but under other provisions of the Act], is not liable to advance tax u/s. 208 in respect of income of the nature referred to in section 172(2) and hence neither liable to pay interest u/s. 234B and 234C nor entitled to interest u/s. 244A in respect of such income	730 Dt. 14-12-95	217 ITR (St.) 1.
	Circular No. 730 (referred to above) is withdrawn. It is clarified that in case of a regular assessment u/s. 143 read with section 172(7), the non-resident assessee is liable to pay interest u/s. 234B and 234C and also entitled to receive interest u/s. 244A, as the case may be	9 Dt. 09-07-01	250 ITR (St.) 81.
	(g) In respect of owners or charterers of ships resident in countries with which Double Taxation Agreement (DTAA) exists, the Assessing Officer (AO) shall be competent to issue an annual No Objection Certificate (NOC), instead of NOC before each voyage, in respect of shipping profits assessable u/s. 172. The AO will issue such annual NOC after verifying the applicability of the relevant provisions concerning taxation of shipping profits in the DTAA with the country of which the owner or charterer is a resident. An undertaking from the non-resident company that during the period of currency of the NOC, no ship belonging to it will be in any traffic other than "international traffic" shall be obtained before the issue of the NOC	732 Dt. 20-12-95	217 ITR (St.) 6.
	(h) Taxation of Foreign Telecasting Companies from advertisements is to be determined by AO in accordance with I.T. Act in relation to assessment year 2002-03 and subsequent years. In case, where accounts for Indian operations are not available, provisions of rule 10 of I.T. Rules may be invoked. W.e.f. 31-3-2001, Circular No. 742, dt. 2-5-96 & No. 765, dt. 15-4-98, withdrawn	6 Dt. 5-3-2001	248 ITR (St.) 247.
6.	Double taxation agreements:		
	(a) Agreement with Aden	171 Dt. 8-07-75	100 ITR (St.) 14.
	(b) Agreement with Belgium	553 Dt. 13-02-90	182 ITR (St.) 182.
	(c) Agreement with Canada	638 Dt. 28-10-92	198 ITR (St.) 120.
	(d) Agreement with Federal Republic of Germany	659 Dt. 8-09-93	203 ITR (St.) 127.
	(e) Agreement with Mauritius	682 Dt. 30-03-94	207 ITR (St.) 7.
		789 Dt. 13-04-2000	243 ITR (St.) 57.
		1 Dt. 10-02-03	260 ITR (St.) 245.
	(f) Agreement with Republic of France	39 Dt. 13-04-70	76 ITR (St.) 118.
	(g) Agreement with Pakistan	127 Dt. 10-01-74	93 ITR (St.) 69.
	(h) Income-tax (Double Taxation Relief) (Dominions) Rules, 1956—Sections 90 & 91	116 Dt. 10-07-73 172 Dt. 8-07-75	90 ITR (St.) 24. 100 ITR (St.) 15.
	(i) Where a specific provision is made in the double taxation avoidance agreement, that provision will prevail over the general provisions contained in the Income-tax Act	333 Dt. 2-04-82	137 ITR (St.) 1.
7.	Recording of the date of the receipt of cheque on the challan tendered for payment of any direct taxes	261 Dt. 8-08-79 265 Dt. 11-04-80	120 ITR (St.) 7. 131 ITR (St.) 54.
8.	Place of payment of direct taxes	306 Dt. 19-06-81	130 ITR (St.) 11.
9.	Tax clearance certificate in the case of a foreign employee not domiciled in India—Simplification of procedure—Regarding . .	546 Dt. 4-10-89	180 ITR (St.) 29.
10.	Income-tax clearance certificate to contractors—Issue of—Grounds for denial thereof—levy of penalty for concealment/ conviction—Instructions regarding	162 Dt. 24-03-75 186 Dt. 23-12-75	99 ITR (St.) 15. 102 ITR (St.) 83.
11.	Procedure for granting relief u/s. 89(1)/*89*	331 Dt. 22-03-82	135 ITR (St.) 8.
12.	Provisions of section 230A are not applicable to those cases which involve registration of documents in which the Government is a transferor	191 Dt. 4-03-76	109 ITR (St.) 115.
13.	Section 264(4)(c)—Scope of the expression 'subject of an appeal'—clarification regarding	367 Dt. 26-07-83	144 ITR (St.) 19.

IV. CIRCULARS ON PROVISIONS RELATING TO THE WEALTH-TAX ACT, 1957:

Gist of circular	*Circular No.*	*Refer*
Asset:		
Deposit under "Own Your Telephone" scheme is exempt u/s. 2(e) if the same has not been shown as asset by the assessee in his accounts and in the balance sheet	222 Dt. 10-06-77	110 ITR (St.) 1.
Exemptions:		
1. Withdrawal of exemption in respect of certain items u/s. 5(1)(viii)—Clarification regarding	75 Dt. 22-01-72	83 ITR (St.) 106.
2. Clarification in respect of sec. 5(1)(xxa), in view of the omission of Ninth Schedule to the Income-tax Act w.e.f. 1-4-1988—Omission of the said Schedule does not affect the admissibility of exemption u/s. 5(1)(xxa)	627 Dt. 27-02-92	194 ITR (St.) 221.
3. Investments made under the National Savings Scheme, 1987 is exempt u/s. 5(1)(xxvb) without any monetary ceiling specified in section 5(1A)	511 Dt. 10-05-88	172 ITR (St.) 4.
4. Exemption under section 5(1)(xxxiii) and section 6—Deposits from non-resident Indians — Clarification	411 Dt. 25-02-85	152 ITR (St.) 227.
Valuation & Location of Assets:		
1. For valuation of Jewellery, the report of the registered valuer obtained for one assessment year can also be used for subsequent four assessment years subject to the adjustments specified in Para 3 of the circular. In such a case a copy of the said valuation report along with a chart showing the specified adjustments should be filed along with the return of net wealth for each of the four assessment years	646 Dt. 15-03-93	200 ITR (St.) 228.
2. Instructions on valuation & location of certain assets u/s. 6 & 7 — Also refer Circular No. 384, dt. 6-7-84: 148 ITR (St.) 33 & 392, dt. 24-8-84:150 ITR (St.) 38	3 WT Dt. 28-09-57	33 ITR (St.) 97.
3. Valuation of residential house under Rule 1BB—where the rent of such a house is pegged at a level & cannot be increased, the rent actually received/ receivable should be the basis for arriving at the "gross maintainable rent" for the purposes of the rule	355 Dt. 28-02-83	143 ITR (St.) 4.
4. A. Instructions regarding valuation of unquoted equity shares of investment companies and holding companies—Also refer Circular No. 118, dt. 15-9-73:92 ITR (St.)1 & 332A, dt. 31-3-82:135 ITR (St.) 11	2 WT Dt. 31-10-67	92 ITR (St.) 2.
B. Where the balance sheet of the company as on the relevant valuation date has not been published before the due date of furnishing the return of wealth by the shareholder, the valuation of such unquoted shares can be based on the balance sheet of the immediately preceding valuation date	548 Dt. 27-10-89	181 ITR (St.) 35.
Miscellaneous:		
1. A. Instructions regarding scope of *Explanation* to section 18(1)	8 WT Dt. 15-11-68	71 ITR (St.) 2.
B. Penalty u/s. 18(1)(c)—Cases where tolerance margin of 25% is exceeded because of disallowance of disputed tax liability, penalty should not be levied	17/25/69-WT Dt. 12-06-69	73 ITR (St.) 18.
2. Wealth-tax assessment in respect of properties left in erstwhile East Pakistan after Indo-Pak Conflict of 1965	385 Dt. 3-07-84 547 Dt. 18-10-89	148 ITR (St.) 33. 180 ITR (St.) 42.
3. Consequent to the amendment of section 2(m), with effect from the assessment year 1993-94, the wealth tax liability under the Wealth-tax Act is not a debt owed by the assessee incurred in relation to the assets taxable under the Wealth-tax Act. The liability of wealth-tax is a personal liability of the assessee and is not a debt incurred by the assessee but it is created by the statute. Therefore, no deduction is allowable for the wealth-tax liability in the computation of taxable net wealth from assessment year 1993-94 and onwards	663 Dt. 28-09-93	203 ITR (St.) 134.

V. CIRCULARS ON PROVISIONS RELATING TO THE GIFT-TAX ACT, 1958:

For gist of circulars on provisions relating to the Gift-tax Act, 1958, refer page 329 of ITRR 2003-04 (65th Year of Publication).

SEARCH AND SEIZURE

[In respect of searches executed (i.e., initiated or requisitioned) on or after 1-6-2003[1]]

1. Legal provisions:

1.1 In order to unearth concealed income/wealth, the Income-tax department is empowered to search assessee's premises and seize undisclosed assets [Sections 132, 132A, 132B and 153A to 153C of the Income-tax Act read with rules 112, 112C & 112D of the Income-tax Rules].

1.2 The search warrant under section 132(1) [in prescribed Forms No. 45, 45A to 45C] can be issued by the Director-General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner, as may be empowered by the Board, if, in consequence of information in his possession, he has reason to believe that—

(a) a person has omitted or failed to produce any books of account or other documents, in response to summons u/s. 131(1) or notice u/s. 142(1) of the Act [Section 132(1)(a)]; or

(b) a person will not, or would not, produce any books of account or other documents, in response to summons u/s. 131(1) or notice u/s. 142(1), already issued or about to be issued [Section 132(1)(b)]; or

(c) a person is in possession of assets (i.e., any money, bullion, jewellery or other valuable article or thing) and such assets represents either wholly or partly undisclosed to the Income-tax department [Section 132(1)(c)].

1.3 The search action can be undertaken in respect of any year which may be pending on the date on which a search is authorised u/s. 132 or which may have been completed on or before such date and includes also all proceedings under the Act which may be commenced after such date in respect of any year [*Explanation* 2 to section 132].

1.4 The officer authorised by the warrant i.e., authorised officer, has the following powers u/s. 132(1):

(a) to enter and search any building, place, vessel, vehicle or aircraft, if he has reason to suspect that such books of account, documents, money, bullion, jewellery or other valuable article or thing are kept;

(b) to break open the lock of any door, box, locker, safe, almirah or other receptacle, when the keys thereof are not made available;

(c) to search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if he has reason to suspect that such person has secreted on his person any such books of account, documents, money, bullion, jewellery or other valuable article or thing;

(d) require any person, who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record, to afford the necessary facility to inspect such books of account or other documents;

(e) to seize any such books of account, documents, money, bullion, jewellery[2] or other valuable article or thing found as a result of such search. However, bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as result of such search, shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business [Proviso to section 132(1)(iii)];

(f) to place marks of identification on any books of account or documents or to take extracts or copies therefrom; and

(g) to make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing.

Where it is not possible or practicable to seize any asset [referred to in (e) above] due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer is empowered to effect a deemed seizure thereof by issuing an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or deal with such assets without prior permission of the

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1. For the notes in respect of searches executed (i.e., initiated or requisitioned) on or after 1-6-2002 but before 1-6-2003, refer pp. 330-334 of ITRR 2003-04 (65th Year of Publication).

In respect of searches executed (i.e., initiated or requisitioned) on or after 1-6-2003, provisions of sections 113 and 158B to 158BH will not apply [Section 158BI]. Provisions of sections 153A, 153B & 153C will be applicable to such searches. For the notes on the said sections, refer para 2 on pp. 336-337.

2. According to the guidelines for seizure of jewellery and ornaments issued by the Central Board of Direct Taxes [Vide Instruction No. 1916, dt. 11-5-1994: 120 Taxation (St.) 98] —

(i) In respect of wealth-tax assessees, where gross weight of gold jewellery and ornaments found during search exceeds the gross weight declared in the wealth-tax return, only the gold jewellery and ornaments, representing such excess should be seized;

(ii) in the case of assessees not assessed to wealth-tax, the gold jewellery and ornaments to the extent of 500 grams per married lady, 250 grams per unmarried lady and 100 grams per male member of the family need *not* be seized.

However, inventory of the above jewellery and ornaments will be prepared to be used for assessment purpose.

authorised officer [2nd proviso to section 132(1)]. In the case of any valuable article or thing, being stock-in-trade of the business, cannot be covered under such deemed seizure under 2nd proviso to section 132(1) [3rd proviso to section 132(1)].

1.5 The authorised officer may take the help of any police officer and/or of any officer of the Central Government for executing the search warrant issued u/s. 132(1) or 132(1A) [Section 132(2)].

1.6 The authorised officer is also empowered to issue prohibitory order (i.e., attachment order), on the owner or the person in possession of books of account, documents, money, bullion, jewellery or other valuable article or thing [Section 132(3)]. Such prohibitory order is not deemed to be a seizure [*Explanation* to section 132(3)]. The said prohibitory order can remain in force only for 60 days from its issue [Section 132(8A)].

1.7 During the course of the search or seizure, the authorised officer is empowered to record statement on oath from the person found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing. Such on the spot examination may cover all matters relevant to income-tax proceedings. The statements so recorded may be used in evidence in any proceeding under the Act [Section 132(4)].

1.8 Where any books of account, documents, money, bullion, jewellery or other valuable article or thing are found to be in possession or control of any person in the course of a search, the department will presume that they belong to such person unless he rebuts the presumption by producing evidence. The department will also presume that the contents of such books of account and documents are true [Section 132(4A)].

1.9 After the seizure, the authorised officer will hand over the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter referred to as assets) seized u/s. 132(1) to the Assessing Officer (AO) within a period of 60 days from the date on which the last of the authorisations for search was executed [Section 132(9A)].

The assets seized u/s. 132 or requisitioned u/s. 132A may be applied by the department against: (a) any existing tax liability under the direct tax enactments; and (b) the amount of the liability determined on completion of assessment u/s. 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of assessment under Chapter XIV-B for the block period [Section 132B(1)(i)].

Where an assessee makes an application to the Assessing Officer (AO) within 30 days from the end of the month in which the asset was seized, for release of asset explaining the nature and source of acquisition of any such asset to the satisfaction of the AO, then, the AO after recovery of any existing liability therefrom, may release the remaining portion of the said asset with the approval of the Chief Commissioner or Commissioner [1st proviso to section 132B(1)(i)].

Where cash is seized, the AO may apply such cash in the discharge of the liabilities referred to in section 132B(1)(i) [i.e., any existing direct tax liability] [Section 132B(1)(ii)].

Assessees desirous of getting any such retained assets, like jewellery, etc., may apply to the AO for its release either by paying the value thereof or by providing a bank guarantee for the value.

1.10 The books of account and/or other documents cannot be retained by the authorised officer beyond a period of 30 days from the date of the order of assessment u/s. 153A, unless he obtains the approval of the Chief Commissioner, Commissioner, Director-General or Director for an extended retention. The maximum period of such extension cannot exceed 30 days after the completion of all the proceedings under the Act related to search [Section 132(8)]. Assessee objecting to the extension granted by the Chief Commissioner, Commissioner, Director-General or Director u/s. 132(8), may file an application to the Board requesting for the return of books of account and/or documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit [Section 132(10)].

1.11 The assessee is entitled to take copies/extracts from the seized books of account and/or documents at such place and time as may be specified by the authorised officer [Section 132(9)]. The assessee should make a specific request for this purpose to the authorised officer. Such request can be made immediately after the seizure or to the AO, during the assessment proceedings u/s. 153A.

2. Special procedure for assessment of search cases [Sections 153A to 153C]:

The procedure of assessment given in sub-paras 2.1 to 2.4 will apply to all searches to be executed (i.e., initiated or requisitioned) on or after 1-6-2003 [Section 153A].

2.1 *Assessment in case of search or requisition on or after 1-6-2003:*

Section 153A provides that where search is initiated u/s. 132 or books of account, documents or any assets are requisitioned u/s. 132A after 31-5-2003, the Assessing Officer (AO) shall issue notice calling for return of income, within the time specified therein, for 6 assessment years, immediately preceding the assessment year relevant to the previous year in which search was conducted or requisition is made. For example, if a search is conducted say on

15-7-2004, the return for assessment years 1999-2000 to 2004-05 will be called for in the said notice. This is notwithstanding anything contained in sections 139, 147, 148, 149, 151 & 153. The assessee will have to file the returns for all the 6 assessment years, eventhough in respect of some assessment years, assessments might have been completed u/s. 143(3). Also, in the cases where return has been filed but assessment has not been completed or where no return has been filed in response to notice u/s. 142(1)(i) or 148, if those assessment years fall within the said 6 assessment years, the returns of income have to be filed u/s. 153A. The pending assessment proceedings on the date of search/requisition, that is, cases where returns have been filed but assessment has not been completed upto the date of search and where the AO has called for returns of income u/s. 142(1)(i) or 148, as the case may be, and the assessee has not filed the return in response thereto, will abate. Such pending proceedings will be treated as terminated on the date of initiation of search/requisition. The Board has clarified that the appeal, revision or rectification proceedings pending on the date of search u/s. 132 or requisition shall not abeate [Vide para 65.5% Circular No. 7, dt. 5-9-2003: 263 ITR (St.) 62-107]. The AO will assess or reassess the income in respect of each assessment year falling within such 6 assessment years under the existing provisions of sections 143/144. All other provisions of the Income-tax Act, shall apply to the assessment completed u/s. 153A. Tax shall be chargeable at the rates as applicable to each such assessment year. The AO will issue demand notice u/s. 156 for each of 6 assessment years. The assessment made u/s. 153A is appealable u/s. 246A(1)(ba).

2.2 *Time-limit for completion of assessment under section 153A:*

Section 153B specifies the time limit for completion of assessments in search cases. In respect of each of the 6 assessment years, the assessments will have to be completed within 2 years from the end of the financial year in which the last of the authorisations for search u/s. 132 or for requisition u/s. 132A was executed [Section 153B(1)(a)].

In respect of assessment year relevant to previous year in which action u/s. 132 or 132A was taken, the assessment has to be completed within 2 years from the end of the financial year in which action u/s. 132 or 132A was taken [Section 153B(1)(b)]. The return for this assessment year has to be filed u/s. 139 in the normal manner or u/s. 142(1)(i) or 148, as the case may be, as the AO's notice u/s. 153A does not cover this year.

Under *Explanation* to section 153B(1)[3], the following periods will be excluded from the limitation period:

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

(b) the period commencing from the day on which the AO directs the assessee to get his accounts audited u/s.142(2A) and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section;

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

(d) in a case where an application made before the Settlement Commission u/s. 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order u/s. 245D(1) is received by the Commissioner u/s. 245D(2).

However, where immediately after the exclusion of the aforesaid period, the period of limitation referred to in section 153B(1)(a)/(b) available to the AO for making an order of assessment or reassessment, as the case may be, is less than 60 days, such remaining period shall be extended to 60 days and the aforesaid period of limitation shall be deemed to be extended accordingly [Proviso to the *Explanation* to section 153B].

The authorisation referred to in section 153B(1)(a)/(b) shall be deemed to have been executed,–

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

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

2.3 *Assessment of income of any other person:*

Section 153C provides that where any, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person searched, the AO shall hand over the same to the AO having jurisdiction over such other person. Thereafter that AO will follow the same procedure as explained in Para 2.1.

2.4 *Miscellaneous:*

The returns filed u/s. 153A attracts the provisions of section 140A (self-assessment), 234A (interest for delayed filing of return) and 234B (interest for defaults in payment of advance tax) [For interest u/s. 234A, refer page 000 and for interest u/s. 234B, refer Note (1) & (3) on page 289].

3. For the notes on amendment of the Explanation to section 153B(10 by the Finance (No. 2) Act, 2004, refer para 10.5 on page 340.

3. Rights and duties of assessees in search cases:

3.1 The Central Board of Direct Taxes has issued the following Charter of Rights and Duties of assessees searched by the Income-tax Department [Vide 208 ITR (St.) 5]:

CHARTER OF RIGHTS AND DUTIES OF PERSONS SEARCHED

Rights of the person searched:

— To see the warrant of authorisation duly signed and sealed by the issuing authority.

— To verify the identity of each member of the search party.

— To make personal search of all members of the search party before the start of the search and on conclusion of the search.

— To insist on personal search of ladies being taken only by a lady, with strict regard to decency.

— To have at least two respectable and independent residents of the locality as witnesses.

— A lady occupying an apartment being searched has a right to withdraw before the search party enters, if, according to custom, she does not appear in public.

— To call a medical practitioner in case of emergency.

— To allow the children to go to school, after checking their bags.

— To have the facility of having meals, etc., at the normal time.

— To inspect the seals placed on various receptacles, sealed in course of search and subsequently at the time of reopening of the seals.

— Every person who is examined under section 132(4) has a right to ensure that the facts so stated by him have been recorded correctly.

— To have a copy of the panchanama together with all the annexures.

— To have a copy of any statement that is used against him by the Department.

— To have inspection of the seized books of account, etc., or to take extracts therefrom in the presence of any of the authorised officers or any other person empowered by him.

— To make an application objecting to the approval given by the Commissioner of Income-tax for retention of books and documents beyond 180 days from the date of the seizure.

Duties of the person searched:

— To allow free and unhindered ingress into the premises.

— To see the warrant of authorisation and put signature on the same.

— To identify all receptacles in which assets or books of account and documents are kept and to hand over keys to such receptacles to the authorised officer.

— To identify and explain the ownership of the assets, books of account and documents found in the premises.

— To identify every individual in the premises and to explain their relationship to the person being searched. He should not mislead by impersonation. If he cheats by pretending to be some other person or knowingly substitutes one person for another, it is an offence punishable under section 416 of the Indian Penal Code.

— Not to allow or encourage the entry of any unauthorised person into the premises.

— Not to remove any article from its place without the notice or knowledge of the authorised officer. If he secrets or destroys any document with the intention of preventing the same from being produced or used as an evidence before the Court or public servant, he shall be punishable with imprisonment or fine or both, in accordance with section 204 of the Indian Penal Code.

— To answer all queries truthfully and to the best of his knowledge. He should not allow any third party to either interfere or prompt while his statement is being recorded by the authorised officer. In doing so, he should keep in mind that—

(i) If he refuses to answer a question on a subject relevant to the search operation, he shall be punishable with imprisonment or fine or both, under section 179 of the Indian Penal Code.

(ii) Being legally bound by an oath or affirmation to state the truth, if he makes a false statement, he shall be punishable with imprisonment or fine or both under section 181 of the Indian Penal Code.

(iii) Similarly, if he provides evidence which is false and which he knows or believes to be false, he is liable to be punished under section 191 of the Indian Penal Code.

— To affix his signature on the recorded statement, inventories and the panchanama.

— To ensure that peace is maintained throughout the duration of the search, and to co-operate with the search party in all respects so that the search action is concluded at the earliest and in a peaceful manner.

— Similar co-operation should be extended even after the search action is over, so as to enable the authorised officer to complete necessary follow-up investigations at the earliest.

[Continued from page No. 48]

(E) Under newly inserted sub-section (11B) in section 80-IB, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area [as defined in section 80-IB(14)(f)] shall be eligible for deduction of 100% of such profits and gains for five consecutive assessment years commencing from the initial assessment year in which the undertaking begins to provide medical services, subject to the conditions that: (1) such hospital is constructed during the period beginning on 1-10- 2004 and ending on 31-3-2008. The hospital will be deemed to have been constructed on the date on which a completion certificate in respect of such construction, is issued by the concerned local authority; (2) it has at least one hundred beds for patients; (3) the construction is in accordance with the regulations of the local authority; & (4) the assessee is required to file alongwith the return of income an audit report in the prescribed form and in the prescribed manner for claiming the deduction.

8.5 **Section 80U** provides for deduction in the case of a person with disability [For details, refer item (xxxiv) on page 232]. For amendment made in section 80U, refer section 19 of the Finance (No. 2) Act, 2004.

At present, terms "disability", "medical authority", "person with disability" and "person with severe disability" is defined in *Explanation* to section 80U. The substituted *Explanation*, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), is on the same lines as the amendment to section 80DD [Refer Para 8.2 on page 47]. Deduction will be available also to persons with autism, cerebral palsy and multiple disabilities for and from assessment year 2005-06 and onwards.

9. Amendments to provisions relating to rebate of (deduction from) income-tax:

9.1 *REPAYMENT OF HOUSING LOANS TAKEN FROM EMPLOYER BEING AUTHORITY/BOARD/CORPN./ BODY ESTABLISHED UNDER A CENTRAL OR STATE ACT, ELIGIBLE FOR REBATE:*

[Insertion of item (6A) in section 88(2)(xv)(c) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 21 of the Finance (No. 2) Act, 2004]

At present, income-tax rebate is allowed on repayment of housing loan taken from the employers specified in section 88(2)(xv)(c) [For details, refer 1st Para on page 242]. The newly inserted item (6A) in section 88(2)(xv)(c) provides that where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, repayment of housing loan from such employer also will be eligible for rebate (deduction from) income-tax from assessment year 2005-06 and onwards.

9.2 *PROVISION FOR ALLOWING DEDUCTION FROM INCOME-TAX PAYABLE BY RESIDENT INDIVIDUALS HAVING TOTAL INCOME NOT EXCEEDING Rs. 1,00,000/Rs. 1,11,240:*

[Amendment of sections 87(1) & 87(2) and insertion of new section 88D w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer sections 20 & 22 of the Finance (No. 2) Act, 2004]

Clause (a) of newly inserted section 88D, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that in the case of a resident individual, whose total (taxable) income does not exceed Rs. 1,00,000, will be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under Chapter VIII-A) on his total income with which he is chargeable for any assessment year, of an amount equal to 100% of such income-tax. The amendment made in section 87(1) & 87(2) are consequent to the insertion of new section 88D. As the income-tax payable is nil, additional surcharge (i.e., Education Cess) @ 2% of I.T. is also Rs. Nil. This deduction is not available to non-resident individual, HUF, BOI, etc., etc.

Clause (b) of newly inserted section 88D, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides for marginal relief to ensure that a resident individual having total (taxable) income exceeding Rs. 1,00,000 is not left with a post tax income (i.e., income after deducting income-tax at the scheduled rate) below Rs. 1,00,000 [Refer Table B1 on page 298]. The relief u/s. 88D(b) is on graded scale of income. The marginal relief for rebate holds good upto total (taxable) income of Rs. 1,11,240.

9.3 *PROVISION FOR ALLOWING REBATE IN RESPECT OF SECURITIES TRANSACTION TAX PAID:*

[Amendment of sections 87(1) & 87(2) and insertion of new section 88E w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer sections 20 & 23 of the Finance (No. 2) Act, 2004]

Newly inserted section 88E, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that where the total income of an assessee in a previous year includes any income, chargeable under the head "Profits and gains of business or profession", arising from taxable securities transactions, he shall be entitled to a deduction, from the amount of income-tax on such income arising from such transactions, at the average rate of income-tax on such income, of an amount equal to the securities transaction tax (STT) paid by him in respect of taxable securities transactions entered into in the course of his business during that previous year. The deduction will be allowed if the evidence of payment of STT in the form to be prescribed is furnished alongwith the return of income.

However the amount of deduction shall not exceed the amount of income-tax computed as above on such income. For the definition of "taxable securities transaction" and "securities transaction tax", refer section 97 of

the Finance (No. 2) Act, 2004. The amendment made in section 87(1) & 87(2) are consequent to insertion of new section 88E.

10. Amendments relating to assessment procedure:

10.1 *PROOF OF TAX DEDUCTED AT SOURCE ON OR AFTER 1-4-2005 NOT TO BE FURNISHED WITH INCOME-TAX RETURN:*

[Amendment of the clause (c)(i) in the Explanation to section 139(9) w.e.f. 1-4-2005. Refer section 32 of the Finance (No. 2) Act, 2004]

At present, non-filing of evidence for tax deducted at source (i.e., TDS certificate) with the return of income, will render the return of income defective under clause (c)(i) of the *Explanation* to section 139(9) [For details, refer sub-item (iii) of item (v) on page 187]. Under the amendment of said clause, non-filing of TDS certificates for tax deducted at source before 1-4-2005 only will render the return of income defective. The amendment to the said clause (c)(i) is consequent to revised TDS procedure laid down in the newly inserted section 199(3) and 203AA by sections 41 & 46 of the Finance (No. 2) Act, 2004 [For details, refer items (3) & (5) on page 39].

10.2 *NON-RESIDENTS REQUIRED TO INTIMATE 'PAN' TO PERSONS RESPONSIBLE FOR DEDUCTING TAX AT SOURCE:*

[Omission of 1st proviso to section 139A(5A) w.e.f. 1-4-2005. Refer section 33(a) of the Finance (No. 2) Act, 2004]

At present, under 1st proviso to section 139A(5A), non-residents referred to in sections 115AC(4) or 115BBA(2) and non-resident Indian referred to in section 115G are not required to intimate the permanent account number (PAN) to the person responsible for deducting tax at source under Chapter XVII-B. As the proviso is omitted, w.e.f. 1-4-2005, the said persons should also intimate their PAN to the persons deducting tax at source under Chapter XVII-B.

10.3 *LICENSEE OR LESSEE REFERRED TO IN SECTION 206C(1C) TO INTIMATE 'PAN' TO PERSON COLLECTING TAX:*

[Amendment of sections 139A(5C) & 139A(5D) w.e.f. 1-10-2004. Refer section 33(b) of the Finance (No. 2) Act, 2004]

The amendments to sections 139A(5C) & 139A(5D) are consequent to newly inserted sub-section (1C) in section 206C, which provides for collection of tax from the licensee or lessee of licence, contract or lease relating to parking lot, toll plaza, mine or quarry [Refer item (7) on page 40]. W.e.f. 1-10-2004, such licensee or lessee also will have to intimate their permanent account number to the person responsible for collecting tax u/s. 206C.

10.4 *ESTIMATE BY VALUATION OFFICER IN CERTAIN CASES:*

[Insertion of new section 142A w.e.f. 15-11-1972. Refer section 34 of the Finance (No. 2) Act, 2004]

At present, there is no specific provision for the Assessing Officer (AO) to refer valuation of undisclosed or partly disclosed assets, etc. u/s. 69, 69A or 69B, to the departmental Valuation Officer (VO). The new section 142A, w.e.f. 15-11-1972, provides for making such reference. Section 142A(1) provides that for the purpose of making an assessment or re-assessment, where estimate of the value of any investment referred to in sections 69 or 69B or the value of any bullion, jewellery or other valuable article referred to in sections 69A or 69B is required, the AO may require the VO to estimate the value thereof and report to him. The term VO will have the same meaning as in section 2(r) of the Wealth-tax Act, 1957 [*Explanation* to section 142A]. Section 142A(2) provides that for the purposes of section 142A(1), the VO will have all powers that he has u/s. 38A of the Wealth-tax Act, 1957. Section 142A(3) provides that on receipt of the valuation report from the VO, the AO, after giving an opportunity to the assessee, may take into account the valuation report in making such assessment or re-assessment. The proviso to section 142A provides that, such reference to the VO cannot be made for assessment made on or before 30-9-2004, and where such assessment has become final and conclusive on or before the said date, except in cases of reassessment in search cases u/s. 153A.

10.5 *EXCLUSION OF PERIOD FROM THE TIME LIMIT FOR COMPLETING ASSESSMENT/REASSESSMENT WHERE APPLICATION IS MADE U/S. 245Q(1) TO AAR, SPECIFIED:*

[Insertion of new clauses (vi) & (vii) in the Explanation 1 to section 153 w.e.f. 1-10-2004. Refer section 35 of the Finance (No. 2) Act, 2004]

At present, certain period are excluded from the time limit for completing assessment or reassessment under *Explanation* 1 to section 153. Under newly inserted clause (vi) in the said *Explanation*, w.e.f. 1-10-2004, the period commencing from the date on which an application is made to the Authority for Advance Ruling (AAR) u/s. 245Q(1) and ending with date on which the order rejecting the application is received by the Commissioner u/s. 245R(3) will be excluded in computing the time limit for completion of assessment/reassessment. Newly inserted clause (vii) in the said *Explanation*, w.e.f. 1-10-2004, provides that the period from the date of application made to AAR u/s. 245Q(1) to the date on which the advance ruling pronounced by it is received by the Commissioner u/s. 245R(7) will be excluded in computing the time limit for completion of assessment/ reassessment.

10.6 *EXCLUSION OF PERIOD FROM THE TIME LIMIT FOR COMPLETING ASSESSMENT/REASSESSMENT U/S. 153B IN CASE APPLICATION IS MADE U/S. 245Q(1) TO AAR, SPECIFIED:*

[Insertion of new clauses (v) & (vi) in the Explanation to section 153B(1) w.e.f. 1-10-2004. Refer section 36 of the Finance (No. 2) Act, 2004]

Section 153B specifies the time limit for completing search assessment with exclusion of certain specified periods [*Explanation* to section 153B(1)]. The new clauses (v) & (vi) inserted in the said *Explanation* are on the same lines as in new clauses (vi) & (vii) inserted in *Explanation* 1 to section 153 [Refer para 10.5 on page 340]. The time taken by AAR will be excluded in computing the time limit for completion of search assessment also.

11. Miscellaneous amendments:

11.1 Section 94(7)(b) substituted, new sub-section (8) inserted in section 94 and clause (aa) of the *Explanation* to section 94 substituted, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), by section 25 of the Finance (No. 2) Act, 2004.

At present, section 94(7) provides that where any person buys or acquires any securities or unit within a period of 3 months prior to the record date [vide section 94(7)(a)] & sells or transfers the same within a period of 3 months after such record date [vide section 94(7)(b)] and dividend or income on such securities or units is exempt, then, the loss, if any arising from the said sale will be ignored to the extent of such exempt dividend or income. Under substituted clause (b) of section 94(7), time limit in relation to sale of units (and not securities) has been extended from 3 months to 9 months after such record date.

Newly inserted sub-section (8) in section 94 provides that where a person buys or acquires any units (hereafter referred to as original units) within a period of three months prior to the record date for bonus units & he is allotted additional units (i.e., bonus units) on the basis of holding of the original units, the loss, if any, arising on sale of all or any of the original units, within a period of nine months from the said record date, shall be ignored for the purposes of computing his income and the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of bonus units so allotted which are held by him on the date of such sale or transfer of the original units.

The substituted clause (aa) of the *Explanation* to section 94 defines the term 'record date' separately for company and Mutual Fund. While there is no change in the definition of record date in respect of a company, the record date for Mutual Fund or the Administrator of the specified undertaking or specified company, referred to in the *Explanation* to section 10(35), for the purposes of entitlement to receive income or additional units (i.e., bonus units) without any considerations, as the case may be, has been specified.

11.2 Section 285BA substituted w.e.f. 1-4-2005 by section 63 of the Finance (No. 2) Act, 2004. At present, any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year. The substituted section 285BA, provides that from financial year 2004-05 and subsequent financial years, an assessee or the prescribed person in respect of an office of Government or certain other authorities [specified in clauses (c) to (j) of section 285BA(1)] who is responsible for registering, or maintaining books of account or other document containing a record of any specified financial transaction [referred to in section 285BA(3)], under any law, shall furnish an annual information return, in respect of such specified financial transaction which is registered or recorded by him, to the prescribed income-tax authority or such other authority or agency as may be prescribed [Section 285BA(1)]. The annual information return shall be furnished within the prescribed time after the end of each financial year, in such form and manner including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any computer readable media, as may be prescribed [Section 285BA(2)]. Under section 285BA(3), the "specified financial transaction" means any:

(1) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or
(2) transaction for rendering any service; or
(3) transaction under a works contract; or
(4) transaction by way of an investment made or an expenditure incurred; or
(5) transaction for taking or accepting any loan or deposit,

which may be prescribed. The Board has been empowered to prescribe different values for different transactions in respect of different persons. The value or the aggregate value of such transactions during a financial year to be prescribed shall not be less than Rs. 50,000. Section 285BA(4) provides that where the annual information return is found to be defective the prescribed income-tax authority may intimate the defect to the person and call upon the person to rectify the same within one month or such further period as may be allowed. If the defect is not rectified, such return will be treated as invalid return and provisions of the Income-tax Act shall apply as if such person had failed to furnish the annual information return. Section 285BA(5) provides that where the annual information return is not filed within the prescribed time, the prescribed income-tax authority may issue a notice calling for the same within a period not exceeding 60 days from the date of service of the notice.

11.3 Section 271FA inserted w.e.f. 1-4-2005 by section 55 of the Finance (No. 2) Act, 2004. New section 271FA provides that for failure to furnish annual information return within the time prescribed u/s. 285BA(1), the

prescribed income-tax authority may levy a penalty of Rs. 100 for every day during which the failure continues. The amendment made in section 273B is consequent to insertion of new section 271FA [Refer section 59 of the Finance (No. 2) Act, 2004].

11.4 Section 272A(2) amended w.e.f. 1-4-2005, by section 56 of the Finance (No. 2) Act, 2004. Under the amendment, new clause (k) inserted in section 272A(2) provides that if any person fails to deliver or cause to be delivered a copy of the statement within the time specified in section 200(3) or the proviso to section 206C(3), he shall be liable to a penalty of Rs. 100 for every day during which the failure continues.

11.5 Section 272B(2) amended w.e.f. 1-4-2005, by section 57 of the Finance (No. 2) Act, 2004. At present, under section 272B(2), penalty of a sum of Rs. 10,000 is leviable on a person quoting a false permanent account number (PAN) in document specified in section 139A(5)(c), or intimating false PAN as required by section 139(5A) to the tax deductor. Under the amendment of section 272B(2), the existing provision have been extended also to person intimating a false PAN as required by section 139A(5C) to the person collecting tax u/s. 206C.

11.6 Section 272BBB(1) amended w.e.f. 1-10-2004, by section 58 of the Finance (No. 2) Act, 2004. At present, person collecting tax u/s. 206C has to apply for tax collection account number u/s. 206CA. For failure to comply with the provisions of section 206CA, penalty of sum of Rs. 10,000 is leviable u/s. 272BBB(1). Consequent to amendment of section 206CA(2) and substitution of section 203A, w.e.f. 1-10-2004, by section 51 & 45 of the Finance (No. 2) Act, 2004 [for details refer item (13) on page 41], penalty u/s. 272BBB(1) will be leviable in respect of defaults committed up to 30-9-2004.

12. Securities Transaction Tax:

12.1 Chapter VII inserted. Chapter VII consist of sections 96 to 115 of the Finance (No. 2) Act, 2004. This Chapter shall come into force on the date to be notified by the Central Government. Under the provisions of sections 96 to 115 of the Finance (No. 2) Act, 2004, securities transaction tax at the rate of percentage [specified in the Table to section 98 of the Finance (No. 2) Act, 2004, refer page 29] of the value of taxable securities transactions entered into on or after the date to be notified by the Central Government will be levied and such tax shall be payable by the purchaser and/or seller of equity shares in a company or units of an equity oriented fund of Mutual Fund specified u/s. 10(23D) of the Income-tax Act. The said tax will be collected by the recognised stock exchange/prescribed person in the case of a Mutual Fund, from every person, being a purchaser and/or seller who enters into a taxable securities transaction. The tax collected during any calendar month shall be paid by the recognised stock exchange/prescribed person in the case of a Mutual Fund, to the credit of the Central Government by the 7th day of the month immediately following the said calendar month. The stock exchange/prescribed person in the case of a Mutual Fund will have to file a return at the end of each financial year before the Assessing Officer, in the prescribed form. For this purpose, the stock exchange/ prescribed person in the case of a Mutual Fund is treated as an assessee. The assessment procedure is on the same lines as for income-tax assessment.

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(ii) In relation to coming into force w.e.f. certain date:

1. *W.e.f. 8-9-2003*, rate of interest reduced : (a) from 1¼% p.m. to 1% p.m. in respect of defaults u/s. 115P, 115S, 206C(7), 220(2), 234A, 234B & 234C; (b) from ⅔rd% p.m. to ½% p.m., in respect of, interest on excess refund u/s. 234D, refund u/s. 244A; & (c) from 15% p.a. to 12% p.a. in respect of default u/s. 201(1A) [Refer pp. 201-203].

2. *W.e.f. 1-10-2004:* (a) New section 206C(1C) provides for collection of tax @ source @ 2% for use of/transfer of right or interest in a parking lot, toll plaza, mine or quarry [Refer item (7) on page 40]. Licensee/lessee referred to in section 206C(1C) to intimate PAN to a person collecting tax [Refer Para 10.3 on page 340]; (b) u/s. 194C(3)(i), TDS is not required to be made from the amount of any sum credited/paid to the contractor/sub-contractor, if such sum does not exceed Rs. 20,000. If the aggregate amounts of such sums credited/paid during the financial year exceeds Rs. 50,000, TDS is required to be made u/s. 194C [Refer item (1) on page 38]; & (c) TDS @ 10% applicable to compensation exceeding Rs. 1,00,000, for compulsory acquisition of land (other than agricultural land)/building [Refer item (2) on page 39].

3. *W.e.f. 1-4-2005:* (a) non-filing of TDS certificate in respect of tax deducted at source before 1-4-2005 only will render the return of income defective u/s. 139(9) [Refer Para 10.1 on page 339]; (b) non-residents/non-residents Indians required to intimate their PAN to a person deducting tax [Refer Para 10.2 on page 340]; (c) annual information return, for specified financial transaction, to be filed by specified persons. For failure to file such return penalty is leviable [Refer Para 11.2/11.3 on page 341]; (d) for TDS/TCS made on or after 1-4-2005, certificate for TDS u/s. 203/TCS u/s. 206C(5) is not required to be issued [Refer item (3) & (10) on page 39 & 40]; (e) Quarterly statement for the period ending on 30th June, 30th September, 31st December & 31st March in each financial year to be delivered, by the person deducting/collecting tax, to the prescribed income-tax authority or the person authorised by him [Refer item (4) & (8) on page 39 & 40]; (f) penalty leviable u/s. 272A(2) extended also to failure to deliver a copy of statement within the time specified in section 200(3)/206C(3) [Refer Para 11.4 above]; and (g) penalty leviable u/s. 272B(2) extended also to a person intimating a false PAN as required by section 139A(5C) to the person collecting tax [Refer Para 11.5 above].

CHART FOR DEDUCTION OF TAX AT SOURCE

[In respect of payments to resident assessee during the Financial Year 2004-05]

Sec. of I.T. Act & Nature of income/ payment	When to deduct tax at source	At what rate tax is to be deducted at source	When to deposit tax deducted (as per Col. 3) in Government account	ANNUAL RETURN		TDS CERTIFICATE	
				Prescribed Form No.	Time limit for filing	Prescribed Form No.	Time limit for issue of certificate
1	2	3	4	5	6	7	8
192*: Salary	Monthly at the time of payment where estimated taxable salary exceeds Rs. 4,166 p.m./ Rs. 50,000 p.a.	At the rates prescribed in Part III of the First Schedule to the Finance Act & salary tables on pp. 279-284	Within 1 week from last day of the month in which the deduction is made [Refer note 1]	Form No. 24 [Refer note 10]	30-6-2005	Form No. 16 or 16AA, as the case may be [Can be issued on own stationery Refer note 6]	30-4-2005.
193*: Interest on securities	At the time of credit or payment, whichever is earlier. For no deduction of tax in certain cases where the interest on debenture does not exceed Rs. 2,500§, refer page 181 [Refer note 4 & 5]	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 10% as I.T. + S.C. & Addl. S.C.† [In the case of a domestic co., @ 20% as I.T. + S.C. & Addl. S.C.†]	Within 1 week from the last day of the month in which the deduction is made [Refer note 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/ payment [Refer note 2].
194*: Dividends$	Before making payment to resident shareholder. For no deduction of tax in certain cases, refer 1st proviso to section 179 (Refer note 3 & 5)	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 20% as I.T. + S.C. & Addl. S.C.†	Within 1 week from last day of the month in which the deduction is made	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from end of the month of issue of cheque/ warrant.
194A*: Interest other than "Interest on securities" payable by persons other than individual/HUF**	At the time of credit or payment, whichever is earlier, when the aggregate sums payable during the financial year exceeds Rs. 5,000†† [Refer note 4 & 5]	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 10% as I.T. [In the case of a domestic co., @ 20% as I.T.] + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which the deduction is made [Refer note 1 & 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/ payment [Refer note 1 & 2].
194B*: Winnings from lottery or cross-word puzzle or card game & other game	At the time of payment when it exceeds Rs. 5,000	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 30% as I.T. + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which the deduction is made	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.
194BB*: Winnings from horse race	At the time of payment when it exceeds Rs. 2,500	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 30% as I.T. + S.C. & Addl. S.C. †	Within 1 week from the last day of the month in which the deduction is made	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.
194C*: Payments to contractors/sub-contractors (payable to sub-contractor by persons other than individual/HUF)**	At the time of credit or payment, whichever is earlier, where the aggregate of amounts of sums credited or paid during the financial year exceeds Rs. 50,000‡‡	In the case of payment made to— 1. Contractor @ 2%‡ as I.T. + S.C. & Addl. S.C.† 2. Sub-contractor @ 1% as I.T. + S.C. & Addl. S.C. †	Within 1 week from the last day of the month in which the deduction is made [Refer note 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/ payment [Refer note 2].

For notes, refer page 345.

* Read with rules 30, 31 & 37 of the Income-tax Rules, 1962.

§ W.e.f. 1-6-1997, tax is not required to be deducted at source on any interest payable on any security of the Central/State Government.

$ It may be noted that u/s. 194 (i.e., dividends), w.e.f. 1-4-2003, tax is not required to be deducted at source in respect of any dividends, referred to in section 115-O, declared, distributed or paid, as the case may be, on or after 1-4-2003.

** Refer ** marked footnote on page 344.

†† Tax is also required to be deducted at source on payment/credit of income by way of interest exceeding Rs. 5,000: (1) on time deposits (i.e. fixed deposits other than recurring deposits), with a bank including a co-operative bank (other than a co-operative land mortgage bank or a co-operative land development bank), and (2) on deposits with an Indian public company with the main object of carrying on the business of providing long-term finance for purchase/construction of residential houses in India. The limit of Rs. 5,000 is to be computed with reference to the income credited or paid by a branch of the bank/co-op. bank/public company.

‡‡ **If the amount of any sum credited or paid or likely to be credited or paid exceeds Rs. 20,000, tax @ source is required to be made. Upto 30-9-2004, where the contract value exceeds Rs. 20,000, tax @ source is required to be made.**

‡ **In respect of advertising contracts, income-tax is required to be deducted at source at the rate of 1%, as against 2%, as I.T.**

† Refer † marked footnote on page 345.

CHART FOR DEDUCTION OF TAX AT SOURCE—*(Contd.)*

[In respect of payments to resident assessee during the Financial Year 2004-05]

Sec. of I.T. Act & Nature of income/ payment	When to deduct tax at source	At what rate tax is to be deducted at source	When to deposit tax deducted (as per Col. 3) in Government account	ANNUAL RETURN		TDS CERTIFICATE	
				Prescribed Form No.	Time limit for filing	Prescribed Form No.	Time limit for issue of certificate
1	2	3	4	5	6	7	8
194D*: Insurance commission	At the time of credit or payment, whichever is earlier, when the aggregate sums payable during the financial year exceeds Rs. 5,000	At the rates prescribed in Part II of the First Schedule to the Finance Act i.e., @ 10% as I.T. [In the case of a domestic co., @ 20% as I.T.] + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which the deduction is made [Refer note 1 & 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	30-4-2005 [Refer note 1 & 2].
194EE*: Payments out of deposits under National Savings Scheme ref. to in sec. 80CCA & not sec. 88	At the time of payment when the aggregate sums is Rs. 2,500 or more in a financial year. No deduction, if paid to heirs of the depositor [Refer note 3 & 5]	At the rate of 20% as I.T. + S.C. & Addl. S.C.†	On the day of deduction itself	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.
194F*: Payments on account of repurchase of units referred to in sec. 80CCB & not sec. 88	At the time of payment of any amount referred to in sec. 80CCB(2)	At the rate of 20% as I.T. + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which deduction is made	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.
194G*: Commission, etc. on sale of lottery tickets	At the time of credit or payment, whichever is earlier, where it exceeds Rs. 1,000	At the rate of 10% as I.T. + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which deduction is made [Refer note 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/payment [Refer note 2].
194H*: Commission or brokerage, payable by persons other than individual/ HUF**	At the time of credit or payment, whichever is earlier, when aggregate sums credited/paid during the financial year exceeds Rs. 2,500	At the rate of 5% as I.T. + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which deduction is made [Refer note 1 & 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/payment [Refer note 1 & 2].
194-I*: Rent payable by persons other than individual/ HUF**	At the time of credit or payment, whichever is earlier, when aggregate sums credited/paid during the financial year exceeds Rs. 1,20,000	At the rate of— (1) @ 15% as I.T. + S.C. & Addl. S.C.†, if the payee is an individual or a HUF; and (2) @ 20% as I.T. + S.C. & Addl. S.C.†, if the payee is other than an individual or a HUF	Within 1 week from the last day of the month in which deduction is made [Refer note 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/payment [Refer note 2].
194-J*/††: Fees for — (1) professional services; or (2) technical services [payable by persons other than individual/ HUF]**	At the time of credit or payment, whichever is earlier, when the aggregate sums credited/ paid during the financial year exceeds Rs. 20,000, in either case	At the rate of 5% as I.T. + S.C. & Addl. S.C.†	Within 1 week from the last day of the month in which deduction is made [Refer note 2]	Form No. 26 [Refer note 10]	30-6-2005	Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/payment [Refer note 2].

For notes, refer page 345.

* Read with rules 30, 31 & 37 of the Income-tax Rules, 1962.

** W.e.f. 1-6-2002, in the case of an Individual/HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified u/s. 44 AB(a)/(b) during the financial year immediately preceding the financial year in which sum is credited or paid, shall be liable to deduct income-tax u/s. 194A(1) or 194C (2) or 194H or 194-I or 194-J(1), as the case may be. W.e.f. 1-6-2003, provisions of section 194-J(1) will not apply in the circumstances as explained, where the payment of fees for professional services is for personal purposes of such individual or any member of HUF.

†† For the notes on new section 194LA inserted by the Finance (No. 2) Act, 2004, refer item (2) on page 39.

† Refer † marked footnote on page 345.

Notes: 1. The Assessing Officer may permit any person to pay tax deducted from income by way of—

(a) salary, quarterly on 15th June, 15th September, 15th December & 15th March; and

(b) interest u/s. 194A or insurance commission u/s. 194D or commission or brokerage u/s. 194H, quarterly on 15th July, 15th October, 15th January & 15th April.

Time limit for issue of certificate referred to in sections 194A, 194D & 194H is within 14 days from the date of payment of tax [Refer proviso to rule 30(1)(b) and 3rd proviso to rule 31(3) of the I.T. Rules].

2. Where the income referred to in sections 193, 194A, 194C, 194D, 194G, 194-H, 194-I & 194J is credited by a person to the account of the payee as on the date upto which accounts of such person are made, tax deducted has to be deposited in Government account within 2 months of the expiration of the month in which that date falls. The time limit for issue of certificate in such a case is within a week after the expiry of 2 months from the month in which the income is so credited [Refer rule 30(1)(b)(i)(1) & 1st proviso to rule 31(3) of the I.T. Rules].

3. In the case of a resident individual, tax is not to be deducted u/s. 194 and 194EE, if such an individual furnishes to the payer a declaration in writing in duplicate in the prescribed Form No. 15G[1] [Refer section 197A(1) read with rule 29C of the I.T. Rules].

4. In the case of a person (not being a company or a firm), tax is not to be deducted u/s. 193 & 194A, if such a person furnishes to the payer a declaration in writing in duplicate in the prescribed Form No. 15G[1] [Refer section 197A(1A) read with the rule 29C of the I.T. Rules].

5. W.e.f. 1-6-2003, in the case of an individual resident in India, who is of the age of 65 years or more at any time during the previous year and is entitled to rebate of (deduction from) income-tax u/s. 88B, tax is not to be deducted u/s. 193, 194, 194A, 194EE & 197A (1B), if such an individual furnishes to the payer a declaration in writing in duplicate in the prescribed Form No. 15H[1] [Refer section 197A(1C) read with the rule 29C of the I.T. Rules].

6. W.e.f. 1-6-2001, a person responsible for paying salary (i.e., employer) is required to furnish to the employee to whom such payment is made, a statement giving correct and complete particulars of perquisites and/or profits in lieu of salary provided to him and the value thereof in the prescribed Form No. 12BA[2] (if the amount of salary paid or payable to the employee is more than Rs. 1,50,000)/Form No. 16 (if the amount of salary paid or payable to the employee is not more than Rs. 1,50,000). For failure to furnish such statement will attract penalty of Rs. 100 for every day during which the failure continues vide section 272A(2)(i) [Refer section 192(2C) read with rule 26A(2) of the I.T. Rules].

7. W.e.f. 2-7-1996, where more than one certificate is required to be furnished to a payee for TDS made during a financial year, the person deducting the tax, may on the request from such payee, issue within one month from the close of such financial year a consolidated certificate in Form No. 16A for tax deducted during whole of such financial year [Refer 4th proviso to rule 31(3)].

8. For failure to deduct correct tax @ source on due dates, interest u/s. 201(1A) is leviable [Refer interest chart on pp. 201-203]. Similarly, penalty is also leviable u/s. 271C, 272A(2)(C) & 272A(2)(g) [Refer penalty chart on pp. 203-204].

9. For liberalised guidelines for compounding of first technical offences such as delay in depositing the tax deducted at source or tax collected at source, refer PIB Press Release dt. 11-10-1994 [210 ITR (St.) 89].

10. W.e.f. 1-6-2003, section 206(2) provides that a person responsible for TDS under Chapter XVII-B desires to file [principal officer in the case of person being a company, has to file] any return/statement referred to in rule 37 on a computer media, he shall deliver such return/statement within time specified in rule 37 and is accompanied with Form No. 27A furnishing the information specified therein in accordance with the scheme specified [i.e., Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003: 263 ITR (St.)14] (Refer rule 37B). Also refer sub-item w of item 9 on page 316 for Circular Nos. 797 & 8.

FOR THE NOTES ON COLLECTION OF TAX AT SOURCE U/S. 206C, REFER PAGE 349.

1. The payer of the income has to deliver one copy of such declaration to the Chief Commissioner or Commissioner within 7 days of the month next following the month in which the declaration is furnished to him [Rule 29C(3) of the I.T. Rules].

2. It may be noted that, Form No. 12BA should accompany the return of income of the employee.

† 1. Rate of surcharge on income-tax:

(a) In the case of individual, HUF, AOP and BOI, the rate of S.C. is @ 10% of I.T., where the income or the aggregate of such incomes (i.e., referred to in sections given in the chart) paid or likely to be paid and subject to the deduction exceeds Rs. 8,50,000.

(b) In the case of all other persons, other than persons referred to in (a) above, the rate of S.C. is @ 2.5% of I.T.

2. Rate of additional surcharge (i.e., Education Cess) on aggregate of income-tax and surcharge on income-tax:

The amount of income-tax and surcharge on income-tax, if any, so deducted shall be increased by an additional surcharge (i.e., Education Cess) calculated at the rate of 2% of such income-tax and surcharge, if any [Refer section 2(11) of the Finance (No. 2) Act, 2004].

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962:

[In respect of resident assessees in relation to Financial Year 2004-05]

	Subject	*Prescribed Form No.*	*Refer I.T. Rules*
I.	**Charitable & Religious Trusts, etc.:**		
	(a) Notice for accumulation of income to be given to the Assessing Officer/the prescribed authority u/s. 11(2) or under the said provisions as applicable to sections 10(21) & 10(23)	10	17
	(b) An application u/s. 12A(a) for registration of charitable or religious trusts, etc.	10A	17A
	(c) The auditor's report u/s. 12A(b)	10B	17B
	(d) Application for approval/continuance u/s. 80G(5)(vi)[in triplicate]	10G	11AA(1)
	(e) Application for approval/continuance u/s. 10(23AAA)[in triplicate]	9	16C(3)
	(f) Appli. for grant of exemp./conti. thereof u/s. 10(23C)(vi)/(via) [in quadruplicate]	56D	2CA(2)
	(g) Application for approval u/s. 10(23G) by an enterprise [in duplicate]	56E	2E(1)
II.	**Salary:**		
	(a) Furnishing of particulars of—		
	1. income u/s. 192(2A) for claiming relief u/s. 89 by an employee	10E	21AA
	2. "salaries" received from other employer or employers to the person responsible for deduction of tax at source (i.e., present employer) [Sec. 192(2)]	12B	26A(1)
	3. perquisites and/or profits in lieu of salary provided to the employee, where the amount of salary paid/payable—		
	(a) is not more than Rs. 1,50,000 [Sec. 192(2C)]	16	26A(2)(a)
	(b) is more than Rs. 1,50,000 [Sec. 192(2C)]	12BA[1]	26A(2)(b)
	(b) Furnishing of statement of particulars of income under the heads of income other than "Salaries" for deduction of tax at source [Section 192(2B)]	—	26B(1)
	A verification in the form mentioned shall be annexed to the statement referred to in rule 26B(1)	—	26B(2)
	(c) Certificate of : (1) deduction of tax at source; & (2) payment of tax u/s. 192(1A) by the employer on behalf of the employee, u/s. 203	16	31(1)(a)
	(d) Certificate of deduction of tax at source, in the case of an individual, resident in India, where his income from salaries before allowing deductions u/s. 16 does not exceed Rs. 1,50,000	16AA	Proviso to 31(1)(a)
	(e) Annual return of deduction of tax from "Salaries" u/s. 206	24	37
III.	**Business/Profession:**		
	(a) Report of audit of the accounts—		
	1. u/s. 33AB(2)	3AC	5AC
	2. u/s. 33ABA(2)	3AD	5AD
	3. u/s. 35D(4)/35E(6) [for assessee other than a company & co-operative society]	3B	6AB
	4. u/s. 44AB [Tax audit], in the case of a person who carries on business or profession—		
	A. who is required by or under any other law to get accounts audited	3CA	6G(1)(a)
	B. who is not required by or under any other law to get accounts audited	3CB	6G(1)(b)
	The particulars to be furnished u/s. 44AB	3CD	6G(2)
	5. u/s. 142(2A)	6B	14A
	6. u/s. 80HHB(3)(i) [for assessee other than a company & co-operative society]	10CCA	18BBA(1)
	7. u/s. 80HHBA(2)(i) [for assessee other than a company & co-operative society]	10CCAA	18BBA(1A)
	8. u/s. 80HHC(4)/80HHC(4A)(a)	10CCAC	18BBA(3)
	9. u/s. 80HHD(6)	10CCAD	18BBA(4)
	10. u/s. 80HHE(4)/80HHE(4A)(i)	10CCAF	18BBA(7)
	11. u/s. 80-I(7) or 80-IA(7) [Other than u/s. 80-IB(7A) & 80-IB (7B)]	10CCB	18BBB(1)
	12. u/s. 80JJAA(2)(b)	10DA	19AB
	(b) Report from an accountant certifying that the deduction has been correctly claimed—		
	1. u/s. 10A(5)	56F	16D
	Particulars to be furnished along with return of income for claiming deduction u/s. 10A(1B)(b)	56FF	16DD
	2. u/s. 10B(5)	56G	16E
	3. u/s. 10BA(5)	56H	16F
	4. u/s. 32(1)(iia)[i.e., additional depreciation)	3AA	5A
	5. u/s. 80HHF(4)	10CCAI	18BBA(9)
	6. u/s. 80-IB(7A)	10CCBA	18DB(2)
	7. u/s. 80-IB(7B)	10CCBB	18DC(3)
	8. u/s. 80LA(3)	10CCF	19AE
	(c) Report from an accountant u/s. 115JB(4) certifying that the book profit has been computed in accordance with the provisions of section 115JB	29B	40B
	(d) Report of accountant u/s. 50B(3) certifying that 'net worth' has been correctly arrived.	3CEA	6H
	(e) Report from an accountant to be furnished u/s. 92E relating to international transaction(s)	3CEB	10E
	(f) Certificate from the Export/Trading House which is required to be furnished by the supporting manufacturer u/s. 80HHC(4A)(b).	10CCAB	18BBA(2)
	(g) Certificate from the undertaking in the Special Economic Zone which is required to be furnished under proviso to section 80HHC(4) by an undertaking referred to in section 80HHC(4C)	10CCABA	18BBA(2A)

1. Form No. 12BA should accompany the return of income of the employee.

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 *(Contd.):*

	Subject	*Prescribed Form No.*	*Refer I.T. Rules*
	(h) Certificate from a person making payment to an assessee, engaged in the business of a hotel or of a tour operator or of a travel agent u/s. 80HHD(2A)	10CCAE	18BBA(6)
	(i) Certificate from the exporting company which is required to be furnished by the supporting software developer u/s. 80HHE(4A)(ii)	10CCAG	18BBA(8)
	(j) Certificate referred to in section 80HHB(3)(ia) from an accountant certifying that deduction has been correctly claimed u/s. 80HHB	10CCAH	18BBA(1B)
	(k) Certificate from an accountant u/s. 80-IA(6), specifying the amount credited to reserve account and the amount utilised during the previous year for the highway project	10CCC	18BBE(3)
	(l) A person carrying on medical profession to keep and maintain 'a daily case register'	3C	6F(3)(i)
IV.	**Deduction of tax at source on payment of income other than "Salaries":**		
	(a) Application to the Assessing Officer for certificate for deduction of tax at lower rates by a person u/s. 197(1) — in respect of income referred to in sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I & 194-J	13	28(1)
	(b) Application by non-resident/foreign company for certificate authorising receipt of interest and other sums (not being salary & int. on sec.) without deduction of tax	15C/15D	29B(3)
	(c) Declaration in duplicate u/s. 197A(1), to be made by a resident individual claiming receipt of "Dividends" (Section 194) and payment of any amount referred to in section 80CCA(2)(a) [i.e., National Savings Scheme, 1987] (Section 194EE), without deduction of tax	15G	29C(1)/(2)
	(d) Declaration in duplicate u/s. 197A(1A) to be made by a person (not being a company or firm) for payment, without deduction of tax at source of interest on securities [Section 193] or interest other than "interest on securities" [Section 194A]	15G	29C(1)/(2)
	(e) Declaration in duplicate u/s. 197A(1C) by an individual resident in India, who is of the age of 65 years or more at any time during the previous year and is entitled to deduction from the amount of income-tax on his total income referred to in section 88B	15H	29C(1A)/(2)
	(f) Certificate for deduction of tax at source u/s. 203 in respect of payment of income by way of: "Interest on securities" [Sec. 193], dividends [Sec. 194], interest other than "Interest on securities" [Sec. 194A], winnings from any lottery or crossword puzzle or any card game and other game of any sort [Sec. 194B], winnings from horse race [Sec. 194BB], contractors/sub-contractors [Sec. 194C], insurance commission [Sec. 194D], withdrawals from National Savings Scheme, 1987 [Sec. 194EE], repurchase of units referred to in section 80CCB [Sec. 194F], commission, etc. on sale of lottery tickets [Sec. 194G], commission or brokerage [Sec. 194H], rent [Sec. 194-I] & fees for professional or technical services [Sec. 194J]	16A	31(1)(b)
	(g) Application in duplicate for allotment of a tax deduction account number u/s. 203A.	49B	114A(1)
V.	**Annual return of deduction of tax at source to be furnished u/s. 206 from, –** (a) Interest on securities [Section 193], (b) Dividends [Section 194], (c) Interest other than "Interest on securities" [Section 194A], (d) Winnings from any lottery or crossword puzzle or any card game and other game of any sort [Section 194B], (e) Winnings from horse race [Section 194BB], (f) Payments made to any contractor or sub-contractor [Section 194C], (g) Insurance commission [Section 194D], (h) Payments in respect of deposits under National Savings Scheme, 1987 referred to in section 80CCA [Section 194EE], (i) Payments on repurchase of units referred to in section 80CCB [Section 194F], (j) Commission, etc., on sale of lottery tickets [Section 194G], (k) Commission or brokerage [Section 194H], (l) Rent [Section 194-I] & (m) Fees for professional or technical services [Section 194J]	26	37
VI.	**Collection of tax at source u/s. 206C:**		
	(a) Application in duplicate for allotment of a tax collection account number: (1) u/s. 206CA(1) [upto 30-9-2004]	49B	114AA(1)
	(2) u/s. 203A(1) [from 1-10-2004 & onwards]	49B	114A(1)
	(b) Declaration by a buyer for no collection of tax at source u/s. 206C(1A) to be furnished in duplicate to the person responsible for collecting tax	27C	37C(1)/(2)
	(c) Certificate for collection of tax at source to be given by the person collecting tax u/s. 206C(5)	27D	37D(1)
	(d) Application by a buyer for certificate for collection of tax at lower rate u/s. 206C(9)	13	37G
	(e) Certificate to be issued by AO in lieu of application made by the buyer u/r. 37G	–	37H(1)
	(f) †Upto 30-9-04, half-yearly return [30th, Sept./31st, March] of coll. of tax u/s. 206C (5A)†	27E	37E
VII.	**Deductions from gross total income under Chapter VI-A:**		
	(a) U/s. 80DD & 80U — Certificate to be obtained from medical authority	*	11A(1)

* In the form prescribed vide Notification No. 16-18/97-NI-1, dt. 1-6-2001/dt. 18-2-2002, and notified under the guidelines for evaluation of various disabilities and procedure for certification.

† **For the notes on amendment made in section 206C (5A) by the Finance (No. 2) Act, 2004, refer item (11) on page 40.**

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 *(Contd.):*

Subject	*Prescribed Form No.*	*Refer I.T. Rules*
(b) U/s. 80DDB — Furnishing of certificate from the specialists referred to in rule 11DD(2) working in a Government hospital	10-I	11DD(3)
(c) U/s. 80G(5C)(v) — Report of audit in respect of details of accounts u/s. 80G(5C)(v)	10AA	18AAAA(2)
(d) U/s. 80GG — Declaration to be filed by the assessee claiming deduction u/s. 80GG	10BA	11B
(e) U/s. 80QQB(3) — Certificate from a person responsible for making payment to be furnished with return of income	10CCD	19AC
(f) U/s. 80RRB(2) — Certificate from the prescribed authority [i.e., Controller, ref. to in section 1(b) of the Patents Act, 1970] to be furnished with return of income	10CCE	19AD
(g) U/s. 80QQB(4), 80R, 80RR, 80RRA & 80RRB(3) — Certificate to be furnished with return of income	10H	29A(1)
(h) U/s. 80-O — Certificate referred to in 2nd proviso to section 80-O certifying that the deduction has been correctly claimed u/s. 80-O	10HA	29AA
VIII. Return of income:		
(a) In the case of a company [not being a company claiming exemption u/s. 11]	1	12(1)(a)
(b) In the case of a person claiming exemption u/s. 11	3A	12(1)(c)
(c) In the case of a person [other than those referred to in (a) & (b) above] whose total income—		
1. includes any income chargeable to income-tax under the head "Profits and gains of business or profession"	2	12(1)(b)(i)
2. does not include any income chargeable to income-tax under the head "Profits and gains of business or profession"	3	12(1)(b)(iii)
(d) In the case of a person referred to in (c) above, assessee has, in lieu of Form No. 2 & 3, an option of filing SARAL return	2D	12(1)(b) 1st proviso
(e) In the case of an individual/HUF, resident in India, where the total income does not include income chargeable to income-tax under the head "Profits and gains of business or profession" or "Capital gains" or "agricultural income", the assessee shall also have option of filing Naya SARAL return	2E	12(1)(b) 2nd proviso
(f) In the case of an individual, resident in India, where his total income includes income under the head 'Salaries', before allowing deductions u/s. 16, does not exceed Rs. 1,50,000 and his total income does not include income under the head 'Profits and gains of business of profession' or 'Capital gains' or agricultural income and he is not in receipt of any other income from which tax has been deducted at source by any person other than the employer, the assessee shall also have the option of filing return in Form No. 16AA	16AA	12(1)(b) 3rd proviso
(g) In the case of a person required to file a return under the proviso to section 139(1)	2C	12(1)(d)
(h) In the case of a person required to file a return u/s. 139(4C)	3A	12(1)(e)
(i) Total income including the undisclosed income for the block period required to be furnished u/s. 158BC(a)	2B	12(1A)
(j) Application for allotment of a permanent account number u/s. 139A(1)/(1A)/(2)/(3)† Form of declaration to be filed by a person —	49A	114(1)†
(1) who does not have either PAN/GIR No. & who makes payment in cash in respect of transactions specified in rule 114B	60	114B
(2) who has agricultural income & is not in receipt of any other income chargeable to income-tax in respect of transactions specified in rule 114B	61	114C(1)(a)
(k) Application [in duplicate] for approval of issue of public companies u/s. 88(2)(xvi)	59	20(1)
(l) Application [in duplicate] for approval of mutual funds u/s. 88(2)(xvii)	59A	20A(2)
IX. Payment of advance tax:		
(a) Notice of demand u/s. 156 to be served upon the assessee in pursuance of an order u/s. 210(3)/(4)	28	38
(b) Intimation which an assessee has to send to the Assessing Officer u/s. 210(5) in pursuance of an order received u/s. 210(3)/(4)	28A	39
X. Refunds:		
A claim for refund of tax under section 239	30	41(1)
XI. Appeals:		
(a) to the Commissioner (Appeals) [in duplicate]	35	45(1)
(b) to the Appellate Tribunal [in triplicate] (with challan for fees paid)	36	47(1)
(c) a memorandum of cross-objections u/s. 253(4) to the Appellate Tribunal [in triplicate]	36A	47(2)
(d) an application u/s. 256(1) requiring the Appellate Tribunal to refer to the High Court any question of law [in triplicate]	37	48

† Application referred to in rule 114(1) shall be accompanied by the documentary proof of identity and address of the applicant as mentioned in the Table below rule 114(4) [Vide Rule 114(4)].

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 *(Contd.):*

Subject	*Prescribed Form No.*	*Refer I.T. Rules*
XII. Tax clearance certificate*:		
Undertaking to be furnished to the prescribed authority [referred to in rule 42(1)] by a person not domiciled in India from the persons referred to in section 230(1)(i)/(ii)	30A	43(1)
No objection certificate to be issued by the said prescribed authority u/s. 230(1)	30B	43(2)
Information to be furnished to the prescribed authority [referred to in rule 42(2)] by a person domiciled in India [i.e., u/s. 230(1A)].	30C	43(3)
Application for certificate to the Assessing Officer under 1st proviso to section 230(1A) . .	31	43(4)
Tax clearance certificate to be issued by the Assessing Officer under 1st proviso to section 230(1A)	33	43(5)

*W.e.f. 1-1-2003, 'Tax clearance certificate' is not required to be obtained for the purposes of: (1) submitting tenders or obtaining commercial contracts by contractors; (2) registration or renewal of registration of contractors; (3) renewal of import/export licences; (4) renewal of post licences; and (5) renewal of shipping licences. However, all such persons shall quote their PAN in their tender/relevant documents [Circular No. 2, dt. 10-2-04: 266 ITR (St.) 5].

COLLECTION OF TAX AT SOURCE [SECTION 206C[1]]

[In respect of collection of tax from buyer or (w.e.f. 1-10-2004, licensee or lessee) during the financial year 2004-05]

Section 206C(1) provides that, every person being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from buyer, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage specified in column (3) of the said Table, of such amount as income-tax as increased by a surcharge at the rate in force and also additional surcharge (i.e., Education Cess) @ 2% of the aggregate of I.T. & S.C.[2].

TABLE

S.No. (1)	*Nature of goods* (2)		*Percentage to be collected from the buyer as I.T.* (3)
1	*Alcoholic liquor for human consumption*	…	*1% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*
2	*Tendu leaves*	…	*5% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*
3	*Timber obtained under a forest lease*	…	*2½% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*
4	*Timber obtained by any mode other than a forest lease*	…	*2½% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*
5	*Any other forest produce not being timber or tendu leaves*	…	*2½% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*
6	*Scrap*	…	*1% plus S.C. on I.T. plus addl. S.C. on I.T. & S.C.*

W.e.f. 1-10-2004, section 206C(1C) provides that, every person, who grants a lease or licence or enters into a contract or otherwise transfers any right or interest in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease, a sum equal to 2% of such amount as income-tax as increased by a surcharge at the rate in force and also additional surcharge (i.e., Education Cess) @ 2% of the aggregate of I.T. & S.C.

The amount so collected u/s. 206C(1)/206C(1C) shall be paid to the credit of the Central Government within one week from the last day of the month in which collection is made [vide Rule 37CA]. Person collecting the tax is required to prepare an annual return, in the prescribed form[3], within the prescribed time, after the end of each financial year, and deliver such return[4] to the prescribed income-tax authority or such other authority or agency as may be prescribed for which the Board may frame a scheme [Section 206C(5A)]. Credit for the tax will be given to buyer or licensee or lessee on the basis of a certificate (Form No. 27D) given by the person collecting tax [Section 206C(5)]. If the person, responsible for collecting the tax u/s. 206C, fails to collect the tax or after collecting the tax fails to pay it to the credit of the Central Government within period specified, then, he/it shall be liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such tax from the date on which tax was collectable to the date on which the tax was actually paid [Section 206C(7)]. In addition, the said person is liable to pay the tax to the credit of the Central Government eventhough he/it has failed to collect the tax [Section 206C(6)]. Further, section 276BB provides that, if a person fails to pay to the credit of the Central Government the tax collected by him under the provisions of section 206C, he shall be punishable with rigorous imprisonment for a term which shall not be less than 3 months but which may extend to 7 years and with fine. Every person collecting tax u/s. 206C, shall, within the time prescribed in the Rule 114AA(3)/114A(3) has to apply to the AO for allotment of tax collection account number/tax-deduction and collection-account number in Form 49B (in duplicate) [Section 206CA/203A].

1. For the notes on amendments made in section 206C, w.e.f. 1-4-2005, by the Finance (No. 2) Act, 2004, refer items (8) to (10) & (12) on page 40.
2. Where the goods referred to above are to be utilised by the buyer for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, and buyer gives a declaration in writing in duplicate in the prescribed Form No. 27C to the seller, then, the tax is not to be collected by the seller. The seller is required to deliver one copy of such declaration to the Chief Commissioner or Commissioner within 7 days of the month next following the month in which the declaration is furnished to him [Section 206C(1A)/(1B) read with rule 37C of the I.T. Rules].
3. Returns of collection of tax @ source referred to above, may be filed on magnetic media such as floppy diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board[i.e., Form No. 27E(vide rule 37EA)].
4. Penalty, for non-filing of the return in prescribed form, is leviable u/s. 272A(2)(c). For details, refer page 204.

TYPICAL STEPS WITH AVERAGE RATES*
From Rs. 50,000 to Rs. 10,00,000 taxable income

ASSESSMENT YEARS
2004-05 & 2005-06

Accounting periods: { Financial year ending 31-3-2004.
Financial year ending 31-3-2005.

Taxable Income Rs.	ASSESSMENT YEAR 2004-05		ASSESSMENT YEAR 2005-06		Taxable Income Rs.	ASSESSMENT YEAR 2004-05		ASSESSMENT YEAR 2005-06		Taxable Income Rs.	ASSESSMENT YEAR 2004-05		ASSESSMENT YEAR 2005-06	
	Tax† Rs.	Average rate	Tax† Rs.	Average rate		Tax† Rs.	Average rate	Tax† Rs.	Average rate		Tax† Rs.	Average rate	Tax† Rs.	Average rate
50000	—	—	—	—	**64000**	1800	2.81	1800	2.81	**78000**	4600	5.90	4600	5.90
50500	50	0.10	50	0.10	**64500**	1900	2.95	1900	2.95	**78500**	4700	5.99	4700	5.99
51000	100	0.20	100	0.20	**65000**	2000	3.08	2000	3.08	**79000**	4800	6.08	4800	6.08
51500	150	0.29	150	0.29	**65500**	2100	3.21	2100	3.21	**79500**	4900	6.16	4900	6.16
52000	200	0.38	200	0.38	**66000**	2200	3.33	2200	3.33	**80000**	5000	6.25	5000	6.25
52500	250	0.48	250	0.48	**66500**	2300	3.46	2300	3.46	**80500**	5100	6.34	5100	6.34
53000	300	0.57	300	0.57	**67000**	2400	3.58	2400	3.58	**81000**	5200	6.42	5200	6.42
53500	350	0.65	350	0.65	**67500**	2500	3.70	2500	3.70	**81500**	5300	6.50	5300	6.50
54000	400	0.74	400	0.74	**68000**	2600	3.82	2600	3.82	**82000**	5400	6.59	5400	6.59
54500	450	0.83	450	0.83	**68500**	2700	3.94	2700	3.94	**82500**	5500	6.67	5500	6.67
55000	500	0.91	500	0.91	**69000**	2800	4.06	2800	4.06	**83000**	5600	6.75	5600	6.75
55500	550	0.99	550	0.99	**69500**	2900	4.17	2900	4.17	**84000**	5800	6.90	5800	6.90
56000	600	1.07	600	1.07	**70000**	3000	4.29	3000	4.29	**85000**	6000	7.06	6000	7.06
56500	650	1.15	650	1.15	**70500**	3100	4.40	3100	4.40	**86000**	6200	7.21	6200	7.21
57000	700	1.23	700	1.23	**71000**	3200	4.51	3200	4.51	**87000**	6400	7.36	6400	7.36
57500	750	1.30	750	1.30	**71500**	3300	4.62	3300	4.62	**88000**	6600	7.50	6600	7.50
58000	800	1.38	800	1.38	**72000**	3400	4.72	3400	4.72	**89000**	6800	7.64	6800	7.64
58500	850	1.45	850	1.45	**72500**	3500	4.83	3500	4.83	**90000**	7000	7.78	7000	7.78
59000	900	1.53	900	1.53	**73000**	3600	4.93	3600	4.93	**91000**	7200	7.91	7200	7.91
59500	950	1.60	950	1.60	**73500**	3700	5.03	3700	5.03	**92000**	7400	8.04	7400	8.04
60000	1000	1.67	1000	1.67	**74000**	3800	5.14	3800	5.14	**93000**	7600	8.17	7600	8.17
60500	1100	1.82	1100	1.82	**74500**	3900	5.23	3900	5.23	**94000**	7800	8.30	7800	8.30
61000	1200	1.97	1200	1.97	**75000**	4000	5.33	4000	5.33	**95000**	8000	8.42	8000	8.42
61500	1300	2.11	1300	2.11	**75500**	4100	5.43	4100	5.43	**96000**	8200	8.54	8200	8.54
62000	1400	2.26	1400	2.26	**76000**	4200	5.53	4200	5.53	**97000**	8400	8.66	8400	8.66
62500	1500	2.40	1500	2.40	**76500**	4300	5.62	4300	5.62	**98000**	8600	8.78	8600	8.78
63000	1600	2.54	1600	2.54	**77000**	4400	5.71	4400	5.71	**99000**	8800	8.89	8800	8.89
63500	1700	2.68	1700	2.68	**77500**	4500	5.81	4500	5.81	**100000**	9000	9.00	9000	9.00

* This table is to be referred by an individual who is resident in India for assessment years 2004-05 & 2005-06. However, for assessment year 2005-06, no tax is payable u/s. 88D(a) by such individual if taxable income does not exceed Rs. 1,00,000 and hence education cess is also not payable.

† Refer explanatory note marked '† Important' on facing page.

TYPICAL STEPS WITH AVERAGE RATES* — *(Contd.)*

Taxable Income Rs.	ASSESSMENT YEAR 2004-05 Tax† Rs.	Average rate	Balance left after tax Rs.	ASSESSMENT YEAR 2005-06 Tax† Rs.	Average rate	Balance left after tax Rs.	Taxable Income Rs.	ASSESSMENT YEAR 2004-05 Tax† Rs.	Average rate	Balance left after tax Rs.	ASSESSMENT YEAR 2005-06 Tax† Rs.	Average rate	Balance left after tax Rs.
100010	9002	9.00	91008	10†	0.01	100000	**460000**	112000	24.35	348000	114240	24.83	345760
105000	10000	9.52	95000	5100†	4.86	99900	**480000**	118000	24.58	362000	120360	25.08	359640
110000	11000	10.00	99000	10200†	9.27	99800	**500000**	124000	24.80	376000	126480	25.30	373520
115000	12000	10.43	103000	12240	10.64	102760	**520000**	130000	25.00	390000	132600	25.50	387400
120000	13000	10.83	107000	13260	11.05	106740	**540000**	136000	25.19	404000	138720	25.69	401280
125000	14000	11.20	111000	14280	11.42	110720	**560000**	142000	25.36	418000	144840	25.86	415160
130000	15000	11.54	115000	15300	11.77	114700	**580000**	148000	25.52	432000	150960	26.03	429040
135000	16000	11.85	119000	16320	12.09	118680	**600000**	154000	25.67	446000	157080	26.18	442920
140000	17000	12.14	123000	17340	12.39	122660	**620000**	160000	25.81	460000	163200	26.32	456800
145000	18000	12.41	127000	18360	12.66	126640	**640000**	166000	25.94	474000	169320	26.46	470680
150000	19000	12.67	131000	19380	12.92	130620	**660000**	172000	26.06	488000	175440	26.58	484560
160000	22000	13.75	138000	22440	14.03	137560	**680000**	178000	26.18	502000	181560	26.70	498440
170000	25000	14.71	145000	25500	15.00	144500	**700000**	184000	26.29	516000	187680	26.81	512320
180000	28000	15.56	152000	28560	15.87	151440	**720000**	190000	26.39	530000	193800	26.92	526200
190000	31000	16.32	159000	31620	16.64	158380	**740000**	196000	26.49	544000	199920	27.02	540080
200000	34000	17.00	166000	34680	17.34	165320	**760000**	202000	26.58	558000	206040	27.11	553960
220000	40000	18.18	180000	40800	18.55	179200	**780000**	208000	26.67	572000	212160	27.20	567840
240000	46000	19.17	194000	46920	19.55	193080	**800000**	214000	26.75	586000	218280	27.29	581720
260000	52000	20.00	208000	53040	20.40	206960	**820000**	220000	26.83	600000	224400	27.37	595600
280000	58000	20.71	222000	59160	21.13	220840	**840000**	226000	26.90	614000	230520	27.44	609480
300000	64000	21.33	236000	65280	21.76	234720	**860000**	239000	27.79	621000	243780	28.35	616220
320000	70000	21.88	250000	71400	22.31	248600	**880000**	259000	29.43	621000	264180	30.02	615820
340000	76000	22.35	264000	77520	22.80	262480	**900000**	268400	29.82	631600	273768	30.42	626232
360000	82000	22.78	278000	83640	23.23	276360	**920000**	275000	29.89	645000	280500	30.49	639500
380000	88000	23.16	292000	89760	23.62	290240	**940000**	281600	29.96	658400	287232	30.56	652768
400000	94000	23.50	306000	95880	23.97	304120	**960000**	288200	30.02	671800	293964	30.62	666036
420000	100000	23.81	320000	102000	24.29	318000	**980000**	294800	30.08	685200	300696	30.68	679304
440000	106000	24.09	334000	108120	24.57	331880	**1000000**	301400	30.14	698600	307428	30.74	692572

†IMPORTANT

Income-tax is to be arrived at with reference to tables given on pp. 243-249 for assessment year 2004-05/ pp. 299-305 for assessment year 2005-06, on the taxable income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 210-236]. From the income-tax so arrived at, the rebates of (deductions from) income-tax is to be allowed u/s. 88/88B/88C/(88D, for asst. year 2005-06), to arrive at the income-tax payable [Refer pp. 237-242 & para 9.2 on page 339].

Note: The tax figures given against taxable income over Rs. 8,50,000 for assessment year 2004-05/2005-06 is inclusive of surcharge on income-tax and for taxable income over Rs. 1,00,000, in relation to assessment year 2005-06, is inclusive of addl. surcharge (education cess) on income-tax and/or surcharge on I.T.

Rates of tax over Rs. 10,00,000 taxable income:

Assessment years	Income-tax	Surcharge	Addl. S.C.	Total tax	Balance left
2004-05	30%	3% (being 10% of I.T.)	—	33.00%	67.00%
2005-06	30%	3% (being 10% of I.T.)	0.66% (being 2% of I.T. & S.C.)	33.66%	66.34%

* Refer * marked note on facing page.
† The tax figures is arrived at after rebate u/s. 88D(b) [Refer Table B1 on page 298].

Your obligations on specified dates under the Direct tax laws

15th June, 2004 : In the case of old and new assessees, **being companies**, if the advance tax payable is Rs. 5,000 or more**,** then, 1st instalment of advance tax due for payment. 2nd, 3rd & 4th instalments are due for payment on or before 15th September, 2004; 15th December, 2004; & 15th March, 2005, respectively. For further details, refer page 287.

31st July, 2004$: Submit return of: (1) Income ‡, † & ** and (2) Wealth ‡ & †, for the assessment year 2004-05.

15th Sept., 2004 : In the case of **all non-corporate assessees** including new non-corporate assessees, 1st instalment of advance tax due for payment. On your own accord estimate your current income (including therein capital gains and casual income also if arose on or before 15-9-2004) for the assessment year 2005-06 and calculate the tax thereon as explained in the *Example* on pp. 287-288. If the advance tax payable (i.e., tax so calculated as reduced by the tax deductible/collectible at source) is Rs. 5,000 or more, pay not less than *30%* of such advance tax as 1st instalment. For further details, refer pp. 285-288.

31st Octo., 2004§ : Companies or persons (other than a company) whose accounts are required to be audited under Income-tax Act or under any other law; or a working partner of a firm whose accounts are required to be audited under Income-tax Act or under any other law; or persons referred to in 1st proviso to section 139(1), are required to submit its/his return of Income†&**/Wealth†, for the assessment year 2004-05.

15th Dec., 2004 : In the case of **non-corporate assessees**, 2nd instalment of advance tax due for payment. Pay not less than *60%* of such advance tax, *as reduced by the amount, if any, paid in the 1st instalment**. If capital gains/ casual income has arose between 16-9-2004 and 15-12-2004, recompute the advance tax payable after including therein such gains/casual income as explained in *Example* 2 on page 288 and accordingly pay advance tax thereon also.

15th March, 2005 : In the case of **non-corporate assessees**, 3rd and last instalment of advance tax due for payment. Pay the *whole amount* of such advance tax, *as reduced by the amount or amounts, if any, paid in the 1st and/or 2nd instalment**. If capital gains/casual income has arose on or after 16-12-2004, recompute the advance tax payable after including therein such gains/casual income as explained in *Example* 2 on page 288 and accordingly pay the whole amount of advance tax thereon.

30th June, 2005 : Submit annual return of deduction of tax at source made during the financial year ending on 31-3-2005:

(a) u/s. 192 from "salaries" (Form No. 24);

(b) (1) u/s. 193 from "interest on securities", (2) u/s. 194 from "dividends", (3) u/s. 194A from "interest other than interest on securities, (4) u/s. 194B from "winnings from lotteries or crossword puzzles", (5) u/s. 194BB from "winnings from horse races", (6) u/s. 194C from "payments from horse races", (6) u/s. 194C from "payments to any contrctor or sub-contractor", (7) u/s. 194D from "insurance commission", (8) u/s. 194EE from "payments in respect of deposits under the National Savings Scheme, etc.", (9) u/s. 194F from payments on account of repurchase of units by mutual fund or Unit Trust of India, (10) u/s. 194G from "commission, etc. on sale of lottery tickets", (11) u/s. 194H from "commission or brokerage", (12) u/s. 194-I from "rent" & (13) u/s. 194J from "fees for professional or technical services". In respect of sub-items (1) to (13) of item (b), the prescribed Form is Form No. 26 [Refer Chart for deduction of tax @ source on pp. 343-345].

$ For assessment year 2004-05, due date for filing return of income has been extended from 31-7-2004 to 31-10-2004§ [Vide F. No. 220/1/2004-IT (A-II), dt. 22-7-2004: 268 ITR (St.) 217].

§ Where the last date of filing returns of: (1) income/loss, and (2) wealth, is a day on which (I.T.) office is closed, the return can be filed on the next working day and, in such cases, the return will be considered to have been filed within the specified time limit [Refer Circular No. 639, dt. 13-11-1992: 199 ITR (St.) (1)].

‡ If 'Due date' specified for filing the return of Income/Wealth applicable in your case falls due on this date [For 'Due date' refer page 184].

† The return to be accompanied by, proof of payment of self-assessment tax including interest payable u/s. 234B/234C (I.T.) (if, due) [Refer page 188] and necessary particulars and statements required to be filed u/s. 139(9) (I.T.) [For details, refer page 186]. It may be noted that report of audit referred to in section 44AB is to be furnished by the 'specified date' i.e., 31st October even if return is not filed by the 'due date' [For details, refer page 137]. For failure to submit return of Income/Wealth on or before the 'Due date' applicable in your case, interest u/s. 234A (I.T.)/17B(W.T.) is payable at the rate of 1% (I.T.)/1% (W.T.), for every month or part of a month for the period of delay in furnishing the return. The interest for delay in submission of return is to be paid alongwith the self-assessment tax payable (if, due).

** **During financial year ending 31-3-2004, if there is a change in the constitution of the firm or firm is newly set-up, then, the firm will be assessed as a firm if a copy of revised deed of partnership/new deed of partnership certified in writing by all the partners (not being minors) is filed along with the return of income of the firm for the assessment year 2004-05 [For details, refer Para 3 of item (B) on page 195].**

* Instalment or instalments of advance tax payable can be increased or decreased by you in the remaining instalment or instalments in accordance with your estimate of the current income and accordingly make the payment of the said amount in the remaining instalment or instalments. In cases where a notice to pay advance tax is served on you [under circumstances mentioned in item 4(b) on page 286], pay the instalment or instalments in accordance with such notice. Here also you can make estimation of current income by sending the intimation in *prescribed Form No. 28A* to the Assessing Officer and pay the instalment(s) accordingly.

NOTES: 1. If the last day of payment of any instalments of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable u/s. 234B/234C would not be charged [Circular No. 676, dt. 14-1-1994: 205 ITR (St.) 330].

2. Tax deducted @ source u/s. 192, 193, 194, 194A, 194B, 194BB, 194C, 194D, 194EE, 194F, 194G, 194H, 194-I & 194-J, is to be deposited in the Government account by the time limit specified in Col. No. 4 of Chart for deduction of tax @ source given on pp. 343-345.

3. Declarations in the prescribed Form No. 15G/15H, obtained in respect of: (a) interest on securities, (b) dividend income, (c) interest other than 'interest on securities', and (d) payments out of deposits under National Savings Scheme, 1987, referred to in section 80CCA, are required to be filed with the Chief Commissioner or Commissioner on or before the seventh day of the month next following the month in which the declaration is furnished.

4. For deduction of tax at source not made prior to 1-6-1987, an application in duplicate for the allotment of Tax-deduction account number in Form No. 49B is required to be made within one month from the end of the month in which the tax was deducted or the 30th September, 1987, whichever is later, to the Assessing Officer, if you are deducting tax at source and have not been allotted the tax-deduction account number.

ACCOUNTING PERIODS WITH REFERENCE TO ASSESSMENT YEAR

Assessment Year	Financial Year ending on	Exemption Limits for Individuals I.T. Rs.	W.T. Rs.	Assessment Year	Financial Year ending on	Exemption Limits for Individuals I.T. Rs.	W.T. Rs.
1998-99§	31-3-1998	40,000	15,00,000	2002-03§	31-3-2002	50,000	15,00,000
1999-2000§	31-3-1999	50,000	15,00,000	2003-04§	31-3-2003	50,000	15,00,000
2000-01§	31-3-2000	50,000	15,00,000	2004-05*	31-3-2004	50,000	15,00,000
2001-02§	31-3-2001	50,000	15,00,000	2005-06	31-3-2005	50,000	15,00,000

§ The time limit for issue of notice under section 149 read with section 151 is given on page 189.

* The Assessing Officer will issue notice on or after the expiry of 'due date' applicable to assessee under section 139(1), if assessee has not furnished return of income by the said 'due date'. For 'due date', refer page 184 [Section 142(1)(i)].

IMPORTANT CIRCULARS ISSUED BY THE CENTRAL BOARD OF DIRECT TAXES DURING THE FINANCIAL YEAR 2003-04:

For gist of important circulars issued by the Central Board of Direct Taxes during the period from 1-4-2003 to 13-5-2004, refer pp. 309-334.

NOTIFICATION ON COST INFLATION INDEX

[Vide Notification No. S.O. 709(E), dt. 20-8-1998 read with Notification No. S.O. 773(E), dt. 20-9-1999, No. S.O. 586(E), dt. 21-6-2000, No. S.O. 510(E), dt. 11-6-2001, No. S.O. 647(E), dt. 19-6-2002, No. S.O. 844(E), dt. 24-7-2003 & No. S.O. 742(E), dt. 29-6-2004]

Table

S.No.	Financial Year	Cost Inflation Index	S.No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)	(1)	(2)	(3)
1.	1981-82	100	13.	1993-94	244
2.	1982-83	109	14.	1994-95	259
3.	1983-84	116	15.	1995-96	281
4.	1984-85	125	16.	1996-97	305
5.	1985-86	133	17.	1997-98	331
6.	1986-87	140	18.	1998-99	351
7.	1987-88	150	19.	1999-2000	389
8.	1988-89	161	20.	2000-01	406
9.	1989-90	172	21.	2001-02	426
10.	1990-91	182	22.	2002-03	447
11.	1991-92	199	**23.**	**2003-04**	**463**
12.	1992-93	223	*24.*	*2004-05*	*480*

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