



V. G. MEHTA'S INCOME-TAX READY RECKONER®

ASSESSMENT YEAR
2008-09

**WITH RATES TABLES AND EXAMPLES FOR
CAPITAL GAINS • WEALTH-TAX
COMPANIES • LIST OF BONUS SHARES
GIST OF IMPORTANT CIRCULARS ON DIRECT TAXES**

FRINGE BENEFIT TAX

ASSESSMENT YEAR
2009-10
FOR DEDUCTION OF TAX FROM "SALARIES"

**AND
COMPUTATION OF "ADVANCE TAX"
DURING THE FINANCIAL YEAR 2008-09**

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 Act, 2008.

Rates of Income tax, surcharge and additional surcharge:

For the notes on: (1) rates of income-tax, S.C. & additional S.C. in relation to assessment year 2008-09, refer item (i) on page 32; (2) provisions relating to deduction of tax/collection of tax at source during the financial year 2008-09, refer item (ii) on pp. 32-34; & (3) increase in exemption limit & rate of I.T. u/s. 111A in relation to assessment year 2009-10, refer item (iii) on pp. 34-35.

INCOME-TAX

(i) In relation to assessment year 2009-10:

1. Definition of agricultural income to include income derived from saplings or seedlings grown in a nursery [Refer para 1.1 on page 36]. Income of a Sikkimese individual exempt from assessment year 1990-91 and onwards [Refer para 1.2 on page 36]. Income of Coir Board, exempt from tax from assessment year 2002-03 and onwards [Refer para 1.3 on page 36]. Amount received as a loan in a transaction of reverse mortgage is exempt from tax from assessment year 2008-09 and onwards [Refer para 1.4 on page 36]. Exemption u/s. 10A & 10B extended upto assessment year 2010-11 [Refer para 1.6 on page 36].

2. Definition of the term “charitable purpose”, substituted [Refer para 2.1 on page 37].

3. From assessment year 2008-09 and onwards, in the case of an employee of the employer who is not liable to fringe benefit tax under Chapter XII-H, perquisites specified in substituted rule 3(2), 3(6) & 3(7)(ii) to 3(7)(vi) will be taxed in the hands of the said employee. Perquisite specified in new rule 3(7)(ix) will be taxed in the hands of employee irrespective of the fact whether the employer is liable to pay fringe benefit tax or not [Refer pp. 80-85].

4. Sum paid by an assessee to a company to be used by such company for scientific research, eligible for a weighted deduction under new section 35(1)(ia) [Refer para 3.1(A) on page 37]. Provisions of section 35D relating to amortisation of certain preliminary expenses, extended to all undertakings/new units [Refer para 3.2 on page 37]. Securities transaction tax/commodities transaction tax, paid by the assessee allowable as a business expenditure [Refer para 3.3 on page 37]. Provisions of section 40(a)(ia), amended in relation to assessment year 2005-06 and subsequent years [Refer para 3.3A on page 38]. Provisions of section 40A(3), amended [Refer para 3.4 on page 38]. Provisions relating to ‘written down value’ u/s. 43(6), clarified in relation to assessment year 2003-04 and subsequent years [Refer para 3.5 on page 39]. Book profit provisions in relation to deemed income of certain companies u/s. 115JB, amended in relation to assessment year 2001-02 and subsequent years [Refer para 3.6 on page 39]. Provisions of levy of fringe benefit tax on employer, amended w.e.f. 1-4-2008/1-4-2009 [Refer para 8.1 on page 44].

5. Provisions relating to transactions not regarded as transfer u/s. 47, amended from assessment year 2008-09 and subsequent years [Refer para 4.1 on page 39]. Provisions relating to cost with reference to certain modes of acquisition u/s. 49(2A), substituted in relation to assessment year 2008-09 and subsequent years [Refer para 4.2 on page 40]. Flat rate of income-tax, in respect of short-term capital gains chargeable to tax u/s. 111A/115AD(1), increased from 10% to 15% [Refer para 4.3 on page 40].

6. Deduction in respect of: (a) specified savings qualifying for deduction u/s. 80C to include deposit, in an account under Senior Citizens Savings Scheme Rules, 2004 and as 5 year time deposit in an account under Post Office Time Deposit Rules, 1981, within overall ceiling limit of Rs. 1,00,000, in relation to assessment year 2008-09 and subsequent years [Refer para 5.1 on page 40]; (b) medical insurance premia paid u/s. 80D, additional deduction of Rs. 15,000 for health insurance premia paid for parents, allowed under substituted section 80D [Refer para 5.2 on page 40]; (c) specified undertakings u/s. 80-IB, amended [Refer para 5.3 on page 41]; & (d) profits and gains from business of hotels and convention centres in specified area u/s. 80-ID, extended to a hotel located in specified district having a World Heritage Site [Refer para 5.4 on page 41].

7. Rebate of (deduction from) income-tax u/s. 88E, withdrawn [Refer para 6.1 on page 42].

(ii) In relation to coming into force from certain dates:

1. W.e.f. 1-4-2008: (a) ‘Due date’ for furnishing return of income/fringe benefit, specified in the *Explanation* 2(a) to section 139(1)/*Explanation* (a) to section 115WD(1) and ‘specified date’ to get accounts audited u/s. 44AB specified in the *Explanation* (ii) to section 44AB, advanced from 31st October to 30th September [Refer para 7.1 & 8.1(F) on page 42 & 45]; (b) return of income to be accompanied by proof of tax deducted/tax collected at source [Refer para 7.2 on page 42]; (c) provisions of section 143(1)/115WE(1), relating to acceptance of return of income/fringe benefit without calling the assessee, substituted [Refer para 7.4 on page 43]; (d) no notice u/s. 143(2) shall be served on the assessee after the expiry of 6 months from the end of the financial year in which return is furnished [Refer para 7.5 on page 43]; (e) reassessment proceedings u/s. 147, amended [Refer para 7.6 on page 44]; (f) new section 115-O(1A) provides that the amount of dividends referred to in section 115-O(1) shall be reduced by the amount of any dividend received by the domestic company from its subsidiary, subject to conditions [Refer Note 2 on page 32]; (g) for the purposes of giving credit in respect of tax deducted/collected u/s. 199/206C(4), the Board is empowered to make rules [Refer item (5)/(8) on page 34]; & (h) credit for tax deducted/collected upto financial year 2009-10 will be given on production of certificate and tax deductor/collector will be required to furnish certificate in respect of tax deducted/collected before 1-4-2010 [Refer item (7)/(9) on page 34].

2. W.e.f. 1-6-2008: (a) TDS is not required to be made u/s. 193 on interest payable to a resident on security issued by a company if such security is in dematerialised form and listed on a recognised stock exchange [Refer item (2) on page 33]; & (b) where a contract is between contractor and AOP/BOI, TDS is also required to be made u/s. 194C(1) by such AOP/BOI on any sum paid/credited to a resident contractor [Refer item (3) on page 33].

(Continued on page 279)

V. G. MEHTA'STM
INCOME-TAX READY RECKONER
 ASSESSMENT YEAR
2008-09

WITH
 RATES TABLES AND EXAMPLES FOR:

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

— ALSO —

ASSESSMENT YEAR
2009-10
 FOR DEDUCTION OF TAX FROM “SALARIES”
 &
 COMPUTATION OF “ADVANCE TAX”
 during the Financial year 2008-09

By
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 CHARTERED ACCOUNTANT

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THE FINANCE ACT, 2008

AN ACT

to give effect to the financial proposals of the Central Government for the financial year 2008-2009.

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

CHAPTER I : PRELIMINARY

1. Short title and commencement. (1) This Act may be called the Finance Act, 2008.

(2) Save as otherwise provided in this Act, sections 2 to 67 shall be deemed to have come into force on the 1st day of April, 2008.

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, 2008, 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 one lakh ten 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 one lakh ten 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 one lakh ten 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 in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh ten thousand rupees”, the words “one lakh forty-five thousand rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh ten thousand rupees”, the words “one lakh ninety-five thousand rupees” had been substituted:

Provided also that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 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 Chapter XII-H 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 111A or 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, 115BBC, 115E and 115JB or fringe benefits chargeable to tax under

section 115WA 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 ten lakh rupees;
- (b) 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;
- (c) in the case of every firm and domestic company, at the rate of ten per cent. of such income-tax where the total income exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees;

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, 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 association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of income-tax where the fringe benefits exceed ten lakh rupees;
- (b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such income-tax;
- (c) in the case of every company, other than a domestic company, at the rate of two and one-half 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 rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of ten 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 ten lakh rupees;
- (b) 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;
- (c) in the case of every firm and domestic company, 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 one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half 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 one crore rupees.

(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 ten lakh rupees;

(b) 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;

(c) in the case of every firm and domestic company 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 one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(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 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 Chapter XII-H 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, 115BBC, 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 ten lakh rupees;

(b) 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";

(c) in the case of every firm and domestic company, at the rate of ten per cent. of such "advance tax", where the total income exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax", where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" and surcharge on such income shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA 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 association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax", where the fringe benefits exceed ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such "advance tax";

(c) in the case of every company, other than a domestic company, at the rate of two and one-half 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 one lakh 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 one lakh 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 one lakh 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 in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh fifty thousand rupees”, the words “one lakh eighty thousand rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh fifty thousand rupees”, the words “two lakh twenty-five thousand rupees” had been substituted:

Provided also that the amount of income-tax or “advance tax” so arrived at 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 (1) 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”, calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the “Secondary and Higher Education Cess on income-tax”, calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education.

(13) 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, 2008, 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,—

(a) in clause (1A), after *Explanation* 2, the following *Explanation* shall be inserted with effect from the 1st day of April, 2009, namely:—

“*Explanation* 3.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income;”;

(b) for clause (15), the following clause shall be substituted with effect from the 1st day of April, 2009, namely:—

“(15) “charitable purpose” includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;”.

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

(a) after clause (26AA) as omitted by the Finance Act, 1997, the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1990, namely:—

“(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

Explanation.—For the purposes of this clause, “Sikkimese” shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the “Register of Sikkim Subjects”), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual’s father or husband or paternal grandfather or brother from the same father has been recorded in that register;”;

(b) after clause (26AAA) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 2009, namely:—

“(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;”;

(c) in clause (29A), after sub-clause (g), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

“(h) the Coir Board established under section 4 of the Coir Industry Act, 1953;”;

(d) after clause (42), the following clause shall be inserted, namely:—

“(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.”.

5. Amendment of section 10A. In section 10A of the Income-tax Act, in sub-section (1), in the fourth proviso, for the figures “2010”, the figures “2011” shall be substituted.

6. Amendment of section 10B. In section 10B of the Income-tax Act, in sub-section (1), in the third proviso, for the figures “2010”, the figures “2011” shall be substituted.

7. Amendment of section 35. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2009,—

- (a) in sub-section (1), after clause (ii), the following clause shall be inserted, namely:—
“(iii) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

Provided that such company—

- (A) is registered in India,
(B) has as its main object the scientific research and development,
(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and
(D) fulfils such other conditions as may be prescribed;”;
- (b) in sub-section (2AB), after clause (5), the following clause shall be inserted, namely:—
“(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iii) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.”.

8. Amendment of section 35D. In section 35D of the Income-tax Act, with effect from the 1st day of April, 2009,—

- (a) for the words “industrial undertaking”, wherever they occur, the word “undertaking” shall be substituted;
(b) for the words “industrial unit”, wherever they occur, the word “unit” shall be substituted.

9. Amendment of section 36. In section 36 of the Income-tax Act, in sub-section (1), after clause (xiv), the following clauses shall be inserted with effect from the 1st day of April, 2009, namely:—

“(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession.”.

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

“(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession.”.

Explanation.—For the purposes of this clause, the expressions “commodities transaction tax” and “taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2008.’

10. Amendment of section 40. In section 40 of the Income-tax Act, in clause (a),—

- (a) in sub-clause (ia), with effect from the 1st day of April, 2005,—
- (i) for the words, brackets and figures “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”, the following words, brackets and figures shall be substituted and shall be deemed to have been substituted, namely:—
“has not been paid,—
(A) in a case where the tax was deductible and was so deducted during the last month of the previous year, on or before the due date specified in sub-section (1) of section 139; or
(B) in any other case, on or before the last day of the previous year”;
- (ii) for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted, namely:—
“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted—
(A) during the last month of the previous year but paid after the said due date; or
(B) during any other month of the previous year but paid after the end of the said previous year,

such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”;

(b) sub-clause (ib) shall be omitted with effect from the 1st day of April, 2009.

11. Amendment of section 40A. In section 40A of the Income-tax Act, for sub-section (3), the following sub-sections shall be substituted, with effect from the 1st day of April, 2009, namely:—

“(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.”.

12. Amendment of section 43. In section 43 of the Income-tax Act, in clause (6), after *Explanation 5*, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of April, 2003, namely:—

“*Explanation 6.*—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.”.

13. Amendment of section 44AB. In section 44AB of the Income-tax Act, in the *Explanation*, in clause (ii), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted.

14. Amendment of section 47. In section 47 of the Income-tax Act,—

(a) after clause (x), the following clause shall be inserted, namely:—

“(xa) any transfer by way of conversion of bonds referred to in clause (a) of sub-section (1) of section 115AC into shares or debentures of any company;”;

(b) after clause (xv), the following clause shall be inserted, namely:—

“(xvi) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.”.

15. Amendment of section 49. In section 49 of the Income-tax Act, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.”.

16. Amendment of section 80C. In section 80C of the Income-tax Act,—

(a) in sub-section (2), after clause (xxii), the following clauses shall be inserted, namely:—

“(xxiii) in an account under the Senior Citizens Savings Scheme Rules, 2004;

(xxiv) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.”;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) If any amount, including interest accrued thereon, is withdrawn by the assessee from his account referred to in clause (xxiii) or clause (xxiv) of sub-section (2), before the expiry of the period of five years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year:

Provided that the amount liable to tax shall not include the following amounts, namely:—

(i) any amount of interest, relating to deposits referred to in clause (xxiii) or clause (xxiv) of sub-section (2), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and

(ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year.”.

17. Substitution of new section for section 80D. For section 80D of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2009,—

‘80D. Deduction in respect of health insurance premia. (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode, other than cash, in the previous year out of his income chargeable to tax.

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family as does not exceed in the aggregate fifteen thousand rupees; and

(b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee as does not exceed in the aggregate fifteen thousand rupees.

Explanation.—For the purposes of clause (a), “family” means the spouse and dependant children of the assessee.

(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1) shall be the whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate fifteen thousand rupees.

(4) Where the sum specified in clause (a) or clause (b) of sub-section (2) or in sub-section (3) is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen, the provisions of this section shall have effect as if for the words “fifteen thousand rupees”, the words “twenty thousand rupees” had been substituted.

Explanation.—For the purposes of this sub-section, “senior citizen” means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.

(5) The insurance referred to in this section shall be in accordance with a scheme made in this behalf by—

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999.”.

18. Amendment of section 80-IB. In section 80-IB of the Income-tax Act,—

(a) in sub-section (9), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that where such undertaking begins refining of mineral oil on or after the 1st day of April, 2009, no deduction under this section shall be allowed in respect of such undertaking unless such undertaking fulfils all the following conditions, namely:—

(i) it is wholly owned by a public sector company or any other company in which a public sector company or companies hold at least forty-nine per cent. of the voting rights;

- (ii) it is notified by the Central Government in this behalf on or before the 31st day of May, 2008; and
- (iii) it begins refining not later than 31st day of March, 2012.”;
- (b) after sub-section (11B), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

“(11C) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, shall be hundred per cent. of the profits and gains derived from such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

- (i) the hospital is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013;
- (ii) the hospital has at least one hundred beds for patients;
- (iii) the construction of the hospital is in accordance with the regulations or bye-laws of the local authority; and
- (iv) the assessee furnishes along with the return of income, a report of 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* to sub-section (2) of section 288, certifying that the deduction has been correctly claimed.

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

(a) 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 local authority concerned;

(b) “initial assessment year” means the assessment year relevant to the previous year in which the business of the hospital starts functioning;

(c) “excluded area” shall mean an area comprising—

- (i) Greater Mumbai urban agglomeration;
- (ii) Delhi urban agglomeration;
- (iii) Kolkata urban agglomeration;
- (iv) Chennai urban agglomeration;
- (v) Hyderabad urban agglomeration;
- (vi) Bangalore urban agglomeration;
- (vii) Ahmedabad urban agglomeration;
- (viii) District of Faridabad;
- (ix) District of Gurgaon;
- (x) District of Gautam Budh Nagar;
- (xi) District of Ghaziabad;
- (xii) District of Gandhinagar; and
- (xiii) City of Secunderabad;

(d) the area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.’.

19. Amendment of section 80-ID. In section 80-ID of the Income-tax Act, with effect from the 1st day of April, 2009,—

(a) in sub-section (2), after clause (ii), the following clause shall be inserted, namely:—

“(iii) engaged in the business of hotel located in the specified district having a World Heritage Site, if such hotel is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013.”;

(b) in sub-section (6), after clause (d), the following shall be inserted, namely:—

‘(e) “specified district having a World Heritage Site” means districts, specified in column (2) of the Table below, of the States, specified in the corresponding entry in column (3) of the said Table:

Table

S.No. (1)	Name of district (2)	Name of State (3)
1.	Agra	Uttar Pradesh
2.	Jalgaon	Maharashtra
3.	Aurangabad	Maharashtra
4.	Kancheepuram	Tamil Nadu
5.	Puri	Orissa
6.	Bharatpur	Rajasthan
7.	Chhatarpur	Madhya Pradesh
8.	Thanjavur	Tamil Nadu
9.	Bellary	Karnataka
10.	South 24 Parganas (excluding areas falling within the Kolkata urban agglomeration on the basis of the 2001 census)	West Bengal
11.	Chamoli	Uttarakhand
12.	Raisen	Madhya Pradesh
13.	Caya	Bihar
14.	Bhopal	Madhya Pradesh
15.	Panchmahal	Gujarat
16.	Kamrup	Assam
17.	Goalpara	Assam
18.	Nagaon	Assam
19.	North Goa	Goa
20.	South Goa	Goa
21.	Darjeeling	West Bengal
22.	Nilgiri	Tamil Nadu.”.

20. Amendment of section 88E. In section 88E of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No deduction under this section shall be allowed in, or after, the assessment year beginning on the 1st day of April, 2009.”.

21. Amendment of section 111A. In section 111A of the Income-tax Act, in sub-section (1), in clause (i), for the words “ten per cent.”, the words “fifteen per cent.”, shall be substituted with effect from the 1st day of April, 2009.

22. Amendment of section 115AD. In section 115AD of the Income-tax Act, in sub-section (1), in the proviso, for the words “ten per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of April, 2009.

23. Amendment of section 115JB. In section 115JB of the Income-tax Act, after sub-section (2),—

(a) the *Explanation* shall be numbered as *Explanation 1* and in *Explanation 1* as so numbered, after clause (g), for the portion beginning with the words “if any amount referred” and ending with the words “as reduced by—”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

“(h) the amount of deferred tax and the provision therefor,
if any amount referred to in clauses (a) to (h) is debited to the profit and loss account, and as reduced by—”;

(b) in *Explanation 1* as so numbered, after clause (vii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“(viii) the amount of deferred tax, if any such amount is credited to the profit and loss account.”;

(c) after *Explanation 1* as so numbered, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“*Explanation 2.*— For the purposes of clause (a) of *Explanation 1*, the amount of income-tax shall include—

- (i) any tax on distributed profits under section 115-O or on distributed income under section 115R;
- (ii) any interest charged under this Act;
- (iii) surcharge, if any, as levied by the Central Acts from time to time;
- (iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and
- (v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.”.

24. Amendment of section 115-O. In section 115-O of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The amount referred to in sub-section (1) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, if—

- (a) such dividend is received from its subsidiary;
- (b) the subsidiary has paid tax under this section on such dividend; and
- (c) the domestic company is not a subsidiary of any other company:

Provided that the same amount of dividend shall not be taken into account for reduction more than once.

Explanation.—For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company.”.

25. Amendment of section 115WB. In section 115WB of the Income-tax Act,—

(a) in sub-section (1), in the *Explanation* to clause (d), in clause (i), for the words “and includes employees’ stock option”, the words “and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme” shall be substituted;

(b) in sub-section (2), with effect from the 1st day of April, 2009,—

(I) in clause (B), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) any expenditure on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils such other conditions as may be prescribed;”;

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

“*Explanation.*—For the purposes of this clause, any expenditure incurred or payment made to—

- (i) fulfil any statutory obligation; or
- (ii) mitigate occupational hazards; or
- (iii) provide first aid facilities in the hospital or dispensary run by the employer; or
- (iv) provide crèche facility for the children of the employee; or
- (v) sponsor a sportsman, being an employee; or
- (vi) organise sports events for employees,

shall not be considered as expenditure for employees’ welfare;”;

(III) clause (K) shall be omitted.

26. Amendment of section 115WC. In section 115WC of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2009,—

(i) in clause (c), for the words, brackets and letters “clauses (A) to (K)”, the words, brackets and letters “clauses (A) to (L)” shall be substituted;

(ii) in clause (d), for the words, brackets and letters “clauses (L) to (P)”, the words, brackets and letters “clauses (M) to (P)” shall be substituted.

27. Amendment of section 115WD. In section 115WD of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (a), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted.

28. Amendment of section 115WE. In section 115WE of the Income-tax Act,—

(A) for sub-section (1), the following sub-sections shall be substituted, namely:—

(1) Where a return has been made under section 115WD, such return shall be processed in the following manner, namely:—

(a) the value of fringe benefits shall be computed after making the following adjustments, namely:—

- (i) any arithmetical error in the return; or
- (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(b) the tax and interest, if any, shall be computed on the basis of the value of fringe benefits computed under clause (a);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

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

(a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,

- (i) of an item, which is inconsistent with another entry of the same or some other item in such return;

- (ii) in respect of which the information required to be furnished to substantiate such entry has not been so furnished under this Act; or

- (iii) in respect of a deduction or value of fringe benefits, where such deduction or value exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgment of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under that sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(B) in sub-section (2), in the proviso, for the words “twelve months from the end of the month”, the words “six months from the end of the financial year” shall be substituted.’.

29. Insertion of new section 115WKB. After section 115WKA of the Income-tax Act, the following section shall be inserted, namely:—

“115WKB. *Deemed payment of tax by employee.* (1) Where an employer has paid any fringe benefit tax with respect to allotment or transfer of specified security or sweat equity shares, referred to in clause (d) of sub-section (1) of section 115WB, and has recovered such tax subsequently from an employee, it shall be deemed that the fringe benefit tax so recovered is the tax paid by such employee in relation to the value of the fringe benefit provided to him only to the extent to which the amount thereof relates to the value of the fringe benefit provided to such employee, as determined under clause (ba) of sub-section (1) of section 115WC.

(2) Notwithstanding anything contained in any other provisions of this Act, where the fringe benefit tax recovered from the employee is deemed to be the tax paid by such employee under sub-section (1), such employee shall, under this Act, not be entitled to claim—

- (i) any refund out of such payment of tax; or
- (ii) any credit of such payment of tax against tax liability on other income or against any other tax liability.”.

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

(a) in sub-section (1), in *Explanation* 2, in clause (a), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted;

(b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), the words, figures and letters “before the 1st day of April, 2008” shall be omitted.

31. Amendment of section 142. In section 142 of the Income-tax Act, in sub-section (2C), in the proviso, for the words “on an application”, the words “*suo motu*, or on an application” shall be substituted.

32. Amendment of section 143. In section 143 of the Income-tax Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

‘(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

(a) the total income or loss shall be computed after making the following adjustments, namely:—

- (i) any arithmetical error in the return; or
- (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(b) the tax and interest, if any, shall be computed on the basis of the total income computed under clause (a);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest is payable by, or no refund is due to, him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

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

(a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,—

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgment of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.;

(b) in sub-section (2), in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no notice under clause (ii) shall be served on the assessee after the expiry of six months from the end of the financial year in which the return is furnished.”.

33. Amendment of section 147. In section 147 of the Income-tax Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”.

34. Amendment of section 151. In section 151 of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”.

35. Amendment of section 153. In section 153 of the Income-tax Act, after sub-section (3),—

(a) the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“(4) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A and sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.”;

(b) in *Explanation 1*,—

(i) in the proviso, for the brackets, figures, word and letter “(2) and (2A)”, the brackets, figures, letter and word “(2), (2A) and (4)” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003;

(ii) after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or section 244 or, as the case may be, section 244A, this proviso shall also apply accordingly.”.

36. Amendment of section 153A. Section 153A of the Income-tax Act shall be renumbered as sub-section (1) thereof and,—

(a) in sub-section (1) as so renumbered, in the second proviso, for the words “referred to in this section”, the words “referred to in this sub-section” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003;

(b) after sub-section (1) as so renumbered and before the *Explanation*, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.”.

37. Amendment of section 153B. In section 153B of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2003,—

(i) in clause (a), for the word, figures and letter “section 153A”, the words, brackets, figures and letter “sub-section (1) of section 153A” shall be substituted and shall be deemed to have been substituted;

(ii) in the *Explanation*,—

(A) after clause (vi) and before the words “shall be excluded”, the following clause shall be inserted and shall be deemed to have been inserted, namely:—

“(vii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A till the date of the receipt of the order setting aside the order of such annulment, by the Commissioner.”;

(B) in the proviso, for the words, brackets and letters “clause (a) or clause (b) of this section”, the words, brackets and letters “clause (a) or clause (b) of this sub-section” shall be substituted and shall be deemed to have been substituted.

38. Amendment of section 153C. In section 153C of the Income-tax Act, in sub-section (1), in the proviso, for the word, figures and letter “section 153A”, the words, brackets, figures and letter “sub-section (1) of section 153A” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003.

39. Amendment of section 153D. In section 153D of the Income-tax Act, for the word, figures and letter “section 153A”, the words, brackets, figures and letter “sub-section (1) of section 153A” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007.

40. Amendment of section 156. In section 156 of the Income-tax Act, the following proviso shall be inserted, namely:—

“Provided that where any sum is determined to be payable by the assessee under sub-section (1) of section 143, the intimation under that sub-section shall be deemed to be a notice of demand for the purposes of this section.”.

41. Amendment of section 191. In section 191 of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003, namely:—

“*Explanation*.—For the removal of doubts, it is hereby declared that if any person, including the principal officer of a company,—

- (a) who is required to deduct any sum in accordance with the provisions of this Act; or
- (b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default within the meaning of sub-section (1) of section 201, in respect of such tax.”.

42. Amendment of section 193. In section 193 of the Income-tax Act, in the proviso, after clause (viii) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of June, 2008, namely:—

“(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.”.

43. Amendment of section 194C. In section 194C of the Income-tax Act, in sub-section (1), in clause (k), after the words “Hindu undivided family”, the words “or an association of persons or a body of individuals, whether incorporated or not, other than those falling under any of the preceding clauses” shall be inserted with effect from the 1st day of June, 2008.

44. Amendment of section 195. In section 195 of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.”.

45. Substitution of new section for section 199. For section 199 of the Income-tax Act, the following section shall be substituted, namely:—

“199. *Credit for tax deducted.* (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.”.

46. Amendment of section 201. In section 201 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2002, namely:—

“(1) Where any person, including the principal officer of a company,—

- (a) who is required to deduct any sum in accordance with the provisions of this Act; or
- (b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

Provided that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.”.

47. Amendment of section 203. In section 203 of the Income-tax Act, in sub-section (3), for the figures, letters and words “1st day of April, 2008”, the figures, letters and words “1st day of April, 2010” shall be substituted.

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

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person for the amount so collected in a particular assessment year in accordance with the rules as may be prescribed by the Board from time to time.”;

(b) in sub-section (5), in the first proviso, for the figures, letters and words “1st day of April, 2008”, the figures, letters and words “1st day of April, 2010” shall be substituted.

49. Amendment of section 251. In section 251 of the Income-tax Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment.”.

50. Amendment of section 254. In section 254 of the Income-tax Act, in sub-section (2A), for the third proviso, the following proviso shall be substituted with effect from the 1st day of October, 2008, namely:—

“Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.”.

51. Insertion of new section 268A. After section 268 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1999, namely:—

“268A. *Filing of appeal or application for reference by income-tax authority.* (1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

(a) the same assessee for any other assessment year; or

(b) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.”.

52. Amendment of section 271. In section 271 of the Income-tax Act, after sub-section (1A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(1B) Where any amount is added or disallowed in computing the total income or loss of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).”.

53. Insertion of new section 273AA. After section 273A of the Income-tax Act, the following section shall be inserted, namely:—

“273AA. *Power of Commissioner to grant immunity from penalty.* (1) A person may make an application to the Commissioner for granting immunity from penalty, if—

(a) he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”.

54. Insertion of new section 278AB. After section 278AA of the Income-tax Act, the following section shall be inserted, namely:—

“278AB. *Power of Commissioner to grant immunity from prosecution.* (1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived:

Provided that where the application for settlement under section 245C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.”.

55. Insertion of new section 282A. After section 282 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2008, namely:—

“282A. *Authentication of notices and other documents.* (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed in manuscript by that authority.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).”.

56. Insertion of new section 292BB. After section 292B of the Income-tax Act, the following section shall be inserted, namely:—

“292BB. *Notice deemed to be valid in certain circumstances.* Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.”.

57. Amendment of section 292C. Section 292C of the Income-tax Act shall be renumbered as sub-section (1) thereof and—

(a) in sub-section (1) as so renumbered, after the words and figures “search under section 132”, the words, figures and letter “or survey under section 133A” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of October, 1975 namely:—

“(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-

section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132.”

58. Amendment of section 295. In section 295 of the Income-tax Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:—

“(fa) the form and manner in which the information relating to payment of any sum may be furnished under sub-section (6) of section 195;”.

59. Amendment of Fourth Schedule. In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first proviso, for the figures, letters and words “31st day of March, 2008”, the figures, letters and words “31st day of March, 2009” shall be substituted.

WEALTH-TAX

60. Amendment of section 17. In section 17 of the Wealth-tax Act,—

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that the Assessing Officer may assess or reassess such net wealth, other than the net wealth which is the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”;

(b) in sub-section (1B), after clause (b), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case maybe, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice, need not issue such notice himself.”.

61. Amendment of section 17A. In section 17A of the Wealth-tax Act, after sub-section (4), in *Explanation 1*, after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that where a proceeding before the Settlement Commission abates under section 22HA, the period of limitation referred to in this section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 22HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.”.

62. Amendment of section 18. In section 18 of the Wealth-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(1A) Where any amount is added or disallowed in computing the net wealth of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).”.

63. Insertion of new section 18BA. After section 18B of the Wealth-tax Act, the following section shall be inserted, namely:—

“18BA. *Power of Commissioner to grant immunity from penalty.* (1) A person may make an application to the Commissioner for granting immunity from penalty, if—

(a) he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”.

64. Amendment of section 23A. In section 23A of the Wealth-tax Act, after sub-section (9), the following sub-section shall be inserted, namely:—

“(9A) In disposing of an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 22HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceedings before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment.”.

65. Insertion of new section 35GA. After section 35G of the Wealth-tax Act, the following section shall be inserted, namely:—

“35GA. *Power of Commissioner to grant immunity from prosecution.* (1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived:

Provided that where the application for settlement under section 22C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.”.

66. Insertion of new section 42. After section 41 of the Wealth-tax Act, the following section shall be inserted, namely:—

“42. *Notice deemed to be valid in certain circumstances.* Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.”.

67. Amendment of section 42D. Section 42D of the Wealth-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day October, 1975, namely:—

“(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 37B, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 37B, had been found in the possession or control of that person in the course of a search under section 37A.”.

CHAPTER IV : [SECTIONS 68 TO 89 RELATE TO INDIRECT TAX (VIZ. CUSTOMS & EXCISE)]

CHAPTER V : [SECTION 90 RELATE TO SERVICE TAX]

CHAPTER VI : [SECTIONS 91 TO 101 RELATE TO SERVICE TAX DISPUTE RESOLUTION SCHEME, 2008]

CHAPTER VII : COMMODITIES TRANSACTION TAX

102. 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 commodities transactions entered into on or after the commencement of this Chapter.

103. 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) “commodities transaction tax” means tax leviable on the taxable commodities transactions under the provisions of this Chapter;

(4) “prescribed” means prescribed by rules made under this Chapter;

(5) “taxable commodities transaction” means a transaction of purchase or sale of option in goods, or option in commodity derivative, or any other commodity derivative, traded in recognised associations;

(6) words and expressions used but not defined in this Chapter and defined in the Forward Contracts (Regulations) Act, 1952, the Income-tax Act, 1961, or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts.

104. Charge of commodities transaction tax. On and from the date of commencement of this Chapter, there shall be charged a commodities transaction tax in respect of every taxable commodities transaction specified in column (2) of the Table below, at the rates 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 seller or the purchaser, as the case may be, specified in the corresponding entry in column (4) of the said Table:

TABLE

Sl. No.	Taxable commodities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
1.	Sale of an option in goods or an option in commodity derivative	0.017 per cent.	Seller
2.	Sale of an option in goods or an option in commodity derivative, where option is exercised	0.125 per cent.	Purchaser
3.	Sale of any other commodity derivative	0.017 per cent.	Seller

105. Value of taxable commodities transaction. The value of a taxable commodities transaction specified under column (2) of the Table in section 104 shall, with reference to such transactions—

- (a) against serial number 1, be the option premium;
- (b) against serial number 2, be the settlement price of the option in goods or option in commodity derivative, as the case may be;
- (c) against serial number 3, be the price at which the commodity derivative is sold.

106. Collection and recovery of commodities transaction tax. (1) Every recognised association (hereinafter in this Chapter referred to as assessee) shall collect the commodities transaction tax from the seller or the purchaser, as the case may be, who enters into a taxable commodities transaction in that recognised association, at the rates specified in section 104.

(2) The commodities transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every assessee to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(3) Any assessee who fails to collect the tax in accordance with the provisions of sub-section (1) 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 (2).

107. Furnishing of return. (1) Every assessee shall, within the prescribed time-limit 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, verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable commodities transactions entered into during such financial year in that recognised association.

(2) Where any assessee fails to furnish the return under sub-section (1) within the prescribed time limit, 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) An assessee who has not furnished the return within the time-limit prescribed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) notices 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.

108. 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 107 or upon whom a notice has been served under sub-section (2) of that section, 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 commodities transactions during the relevant financial year and determine the commodities transaction tax payable or the refund due 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 refundable to it on assessment under sub-section (2), shall, within such time as may be prescribed, refund such amount to the seller or the purchaser, as the case may be, from whom such amount was collected.

109. 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 other 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 make an amendment under sub-section (1), either *suo motu* or on any mistake 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 has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) An order of amendment under this section shall be made by the Assessing Officer in writing.

(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 the 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.

110. Interest on delayed payment of commodities transaction tax. Every assessee, who fails to credit the commodities transaction tax or any part thereof as required under section 106 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.

111. Penalty for failure to collect or pay commodities transaction tax. Any assessee who—

- (a) fails to collect the whole or any part of the commodities transaction tax as required under section 106; or
- (b) having collected the commodities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) 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 (3) of that section, or interest, if any, in accordance with the provisions of section 110, by way of penalty, a sum equal to the amount of commodities 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 (2) of that section and interest in accordance with the provisions of section 110, 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 commodities transaction tax that it failed to pay.

112. Penalty for failure to furnish return. Where an assessee fails to furnish the return within the time-limits prescribed under sub-section (1) or sub-section (2) of section 107, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which the failure continues.

113. Penalty for failure to comply with notice. If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that the assessee has failed to comply with a notice under sub-section (1) of section 108, he may direct that such assessee shall pay, by way of penalty, in addition to any commodities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each day during which the failure continues.

114. Penalty not to be imposed in certain cases. (1) Notwithstanding anything contained in section 111 or section 112 or section 113, no penalty shall be imposed for any failure referred to in the said sections, if the assessee proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure.

(2) No order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

115. Application of certain provisions of Income-tax Act. The provisions of sections 120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961, shall apply, so far as may be, in relation to commodities transaction tax.

116. Appeal to Commissioner of Income-tax (Appeals). (1) An assessee aggrieved by any assessment order made by the Assessing Officer under section 108 or any order under section 109, or denying his liability to be assessed under this Chapter, or by an order imposing 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) An appeal under sub-section (1) shall be in such form and shall be verified in such manner as may be prescribed and shall be accompanied by a fee of one thousand rupees.

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

117. Appeal to Appellate Tribunal. (1) An assessee aggrieved by an order made by a Commissioner of Income-tax (Appeals) under section 116 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 116, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) An appeal under sub-section (1) or sub-section (2) shall be filed within sixty days from 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) An appeal under sub-section (1) or sub-section (2) shall be in such form and verified in such manner as may be prescribed 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 253 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply to such appeal.

118. Punishment for false statement. (1) If a person makes a false 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.

119. Institution of prosecution. No prosecution shall be instituted against any person for any offence under section 118 except with the previous sanction of the Chief Commissioner of Income-tax.

120. 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-limits within which and the form and the manner in which the return shall be delivered or caused to be delivered or furnished under section 107; and

(b) the form in which an appeal may be filed and the manner in which it may be verified under sections 116 and 117.

(3) Every rule made under this Chapter shall be laid, as soon as may be after it is made, 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 both Houses agree that the rule should not be made, the rule 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.

121. 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

122. Amendment of Seventh Schedule to Act 14 of 2001. The Seventh Schedule to the Finance Act, 2001 shall be amended in the manner specified in the Eighth Schedule.

123. Amendment of section 13 of Act 58 of 2002. In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (1), for the words “for a period of five years computed from the appointed day”, the words, figures and letters “for the period beginning on the appointed day and ending

on the 31st day of March, 2009” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of February, 2008.

124. Amendment of Act 23 of 2004. In the Finance (No. 2) Act, 2004, with effect from the 1st day of June, 2008,—

(i) in section 98, in the Table, for serial number 4 and the entries relating thereto, the following serial number and the entries shall respectively be substituted, namely:—

<i>Sl. No.</i>	<i>Taxable securities transaction</i>	<i>Rate</i>	<i>Payable by</i>
(1)	(2)	(3)	(4)
“4	(a) Sale of an option in securities	0.017 per cent.	Seller
	(b) Sale of an option in securities, where option is exercised	0.125 per cent.	Purchaser
	(c) Sale of a futures in securities	0.017 per cent.	Seller”;

(ii) in section 99, for clause (a), the following clause shall be substituted, namely:—

“(a) in the case of a taxable securities transaction relating to an option in securities, shall be—

(i) the option premium, in respect of transaction at item (a) of serial number 4 of the Table in section 98;

(ii) the settlement price, in respect of transaction at item (b) of serial number 4 of the Table in section 98”.

125. Amendment of Act 18 of 2005. In the Finance Act, 2005,—

(i) in section 95, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

“(3) Notwithstanding anything contained in sub-section (1), no banking cash transaction tax shall be charged in respect of any taxable banking transaction entered into on or after the 1st day of April, 2009.”;

(ii) the Seventh Schedule shall be amended in the manner specified in the Ninth Schedule.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph 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. 1,10,000	<i>Nil</i> ;
(2)	where the total income exceeds Rs. 1,10,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,10,000;
(3)	where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 4,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4)	where the total income exceeds Rs. 2,50,000	Rs. 24,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 1,45,000	<i>Nil</i> ;
(2)	where the total income exceeds Rs. 1,45,000 but does not exceed Rs. 1,50,000	10 per cent. of the amount by which the total income exceeds Rs. 1,45,000;
(3)	where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000	Rs. 500 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(4)	where the total income exceeds Rs. 2,50,000	Rs. 20,500 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 1,95,000	<i>Nil</i> ;
(2)	where the total income exceeds Rs. 1,95,000 but does not exceed Rs. 2,50,000	20 per cent. of the amount by which the total income exceeds Rs. 1,95,000;
(3)	where the total income exceeds Rs. 2,50,000	Rs. 11,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000.

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 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 ten lakh 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 ten lakh 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 ten lakh rupees by more than the amount of income that exceeds ten lakh 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 <i>plus</i> 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 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

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 firm having a total income exceeding one crore rupees, 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 the case of every firm having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I.	In the case of a domestic company	30 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,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

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:—

	<i>Rate of income-tax*</i>
I. 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 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	
(C) any security of the Central or State Government	
(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 income by way of short-term capital gains referred to in section 111A	15 per cent.;
(D) 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.;
(E) 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.;
(F) 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 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;

*The amount of income-tax deducted is to be increased by: (1) a surcharge at the rate specified on page 29; and (2) additional surcharge at the rate of 2% (i.e., Education Cess) and also at 1% (i.e., Secondary and Higher Education Cess) on the aggregate of I.T. & S.C., if any [Refer section 2(11) & 2(12) of the Finance Act, 2008 on page 7].

(H) 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(J) on income by way of winnings from horse races	30 per cent.;
(K) 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 royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(D) 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—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 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 income by way of short-term capital gains referred to in section 111A	15 per cent.;
(H) 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.;
(I) on the whole of the other income	30 per cent.;
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.;

* Refer * marked footnote on page 27.

	<i>Rate of income-tax*</i>
(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 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 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 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 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 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(viii) 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.;
(ix) 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.

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 ten lakh rupees;
 - (ii) 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;
 - (iii) in the case of every firm 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 one crore rupees;

* Refer * marked footnote on page 27.

- (B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—
- (i) in the case of every domestic company at the rate of ten per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;
 - (ii) in the case of every company other than a domestic company at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

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 fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under 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 115BBC or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph 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. 1,50,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	Rs. 15,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(4) where the total income exceeds Rs. 5,00,000	Rs. 55,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,80,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,80,000;
(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	Rs. 12,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(4) where the total income exceeds Rs. 5,00,000	Rs. 52,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 2,25,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 2,25,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,25,000;
(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	Rs. 7,500 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(4) where the total income exceeds Rs. 5,00,000	Rs. 47,500 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

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,—

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, 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 ten lakh 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 ten lakh rupees by more than the amount of income that exceeds ten lakh 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 <i>plus</i> 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 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

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 firm having a total income exceeding one crore rupees, 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 the case of every firm having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	30 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,—

- | |
|---|
| (i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax; |
| (ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.: |

Provided that in the case of every company having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

SALIENT FEATURES OF THE FINANCE ACT, 2008:**I. RATES OF TAX:***(i) Rate of tax applicable to taxable income for assessment year 2008-09:*

These rates (i.e., income-tax & S.C. on I.T.) are specified in Part I of the First Schedule to the Finance Act, 2008 and are the same for all categories of taxpayers as those specified in Part III of the First Schedule to the Finance Act, 2007, for the purpose of payment of “advance tax” and deduction of tax at source from “Salaries” during the financial year 2007-08 (Refer pp. 25-27).

In the case of all categories of assessee, aggregate of income-tax and surcharge, if any, chargeable at scheduled rates, and at flat rates u/s. 111A & 112, is to be further increased by an additional surcharge (i.e., Education Cess & Secondary and Higher Education Cess) calculated at 2% *plus* 1% of such income-tax and surcharge [Section 2(11)/(12) of the Finance Act, 2008].

(ii) Rates of deduction of tax at source during the financial year 2008-09 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 Act, 2008 [Refer pp. 27-30]. These rates are the same as those specified in Part II of the First Schedule to the Finance Act, 2007 except that in the case of a non-resident Indian, non-resident in India and foreign company, rate of deduction of income-tax required to be deducted at source on income by way of short-term capital gains referred to in section 111A has been raised from 10% to 15%. Further, in the case of a person resident in India, other than a company, rate of income-tax required to be deducted at source on income by way of interest payable on any security of the Central or State Government has been specified at 10%.

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 the 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/amount collected and subject to the deduction/collection exceeds Rs. 10,00,000,
- (b) 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,
- (c) in the case of every firm and domestic company, at the rate of 10% of such income-tax deducted/collected, where the aggregate of such incomes paid or likely to be paid/amount collected and subject to the deduction/collection exceeds one crore rupees (Rs. 1,00,00,000), and
- (d) in the case of every foreign company, at the rate of 2.5% of such income-tax deducted/collected, where the aggregate of such incomes paid or likely to be paid/amount collected and subject to deduction/collection exceeds one crore rupees (Rs. 1,00,00,000).

However, in the case of every co-operative society and local authority, surcharge is not deductible/collectable on such income tax deducted/collected.

The amount of income-tax and surcharge, if any, so deducted/collected shall be increased by an additional surcharge : (1) Education Cess calculated at 2% of such income-tax and surcharge, if any [Section 2(11) of the Finance Act, 2008]; and (2) Secondary and Higher Education Cess calculated @ 1% of such income-tax and surcharge, if any [Section 2(12) of the Finance Act, 2008].

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

- (2) In respect of dividend declared, distributed or paid by a domestic company on or after 1-4-2008, additional income-tax at the rate of 15% as income-tax *plus* S.C. @ 10% of I.T. and additional S.C. @ 2% & @1% of I.T. & S.C. is payable by such company u/s. 115-O(1) [Refer section 2(4), 2(11) & 2(12) of the Finance Act, 2008]. It may be noted that newly inserted section 115-O(1A), w.e.f. 1-4-2008, provides that the amount of dividends referred to in section 115-O(1) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, subject to conditions that: **(a)** such dividend is received from its subsidiary; **(b)** the subsidiary has paid tax u/s. 115-O(1) on such dividend; & **(c)** the domestic company is not a subsidiary of any other company. Further, same amount of dividend shall not be taken into account for reduction more than once. For the purposes of section 115-O(1A), a company shall be a subsidiary of another company, if such other company holds

more than half in nominal value of the equity share capital of the company [Refer section 24 of the Finance Act, 2008].

- (3) In respect of income distributed by the specified company¹ or a Mutual Fund to its unit holders on or after 1-4-2008, additional income-tax at the rate of:
- (a) 25% on income distributed by a money market mutual fund or a liquid fund²,
 - (b) 12.5% on income distributed to any person being an individual or a HUF by a fund other than a money market mutual fund or a liquid fund², and
 - (c) 20% on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund² [Section 115R(2)].

The additional income-tax payable u/s. 115R(2) is to be increased by a surcharge @ 10% of I.T. and additional surcharge @ 2% and @ 1% of I.T. & S.C. [Refer section 2(4), 2(11), & 2(12) of the Finance Act, 2008].

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

(1) At present, *Explanation* to section 191 provides that if any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall be deemed to be an assessee in default as referred to in section 201(1) in respect of such tax. Under the amendment, w.e.f. 1-6-2003, the substituted *Explanation* provides that if any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of the Income-tax Act; or by an employer referred to section 192(1A), does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under the Income-tax Act, and where the assessee has also failed to pay such tax directly, then, such person shall be deemed to be an assessee in default within the meaning of section 201(1), in respect of such tax [Refer section 41 of the Finance Act, 2008].

(2) At present, clauses (i) to (viii) of the proviso to section 193 provides that deduction of income-tax at source is not required to be made on any income by way of interest on securities payable to a resident specified in those clauses. Under the amendment, w.e.f. 1-6-2008, newly inserted clause (ix) in the proviso provides that deduction of income-tax at source is not required to be made also on income by way of interest payable to a resident on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder [Refer section 42 of the Finance Act, 2008].

(3) At present, section 194C(1) provides for deduction of income-tax at source from any sum credited or paid to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the Central/State Government, local authority, statutory corporation, company, co-operative society, statutory authority engaged in providing housing accommodation, registered society, trust, university, firm and individual/HUF who is required to get his/its accounts audited u/s. 44AB. However, an association of persons (AOP) or body of individuals (BOI) are not required to deduct income-tax at source where the contract is between the contractor and AOP or BOI. Under the amendment of section 194C(1)(k), w.e.f. 1-6-2008, provides that where such contract is between contractor and AOP or BOI, whether incorporated or not, other than those falling under any of the clauses (a) to (j) of section 194C(1), who is required to get his accounts audited u/s. 44AB, income-tax at source is required to be deducted by such AOP or BOI on any sum credited or paid to a resident contractor [Refer section 43 of the Finance Act, 2008].

(4) Section 195(1) provides that any person, responsible for paying any interest or any other sum chargeable to tax (not being income chargeable under the head "Salaries") to a non-resident or a foreign company, is required to deduct income-tax at the rates in force laid down in Part II of the relevant Finance Act. Under the amendment, w.e.f. 1-4-2008, newly inserted section 195(6) provides that the person responsible for deduction of income-tax u/s. 195(1) shall furnish the information relating to payment of any sum to non-resident or to a foreign company in such form and manner to be prescribed by the Board [Refer section 44 of the Finance Act, 2008].

1. Refer footnote No. 10 on page 214.

2. 'money market mutual fund' means a money market mutual fund as defined in section 2(p) of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

³'liquid fund' means a scheme or plan of a mutual fund which is classified by the SEBI as a liquid fund in accordance with the guidelines issued by it in this behalf under SEBI Act, 1992 or regulations made thereunder [Refer *Explanation* to section 115T].

(5) At present, section 199 provides that where any deduction is made, in accordance with the provisions of Chapter XVII-B, on or after 1-4-2008, 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 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 the production of certificate. Under the amendment, w.e.f. 1-4-2008, substituted section 199 provides that for the purposes of giving credit in respect of tax deducted or tax paid in accordance with the provisions of Chapter XVII-B, the Board is empowered to make rules, including the rules for the purposes of giving credit to a person other than those referred to in section 199(1)/(2) and also the assessment year for which such credit may be given [Refer section 45 of the Finance Act, 2008].

(6) At present, section 201(1) provides that if any such person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under the Income-tax Act, he or it shall be deemed to be an assessee in default in respect of the tax. No penalty shall be charged u/s. 221 from such person or principal officer or company if the Assessing Officer is satisfied that such person or principal officer or company has good and sufficient reasons for failure to deduct and pay the tax. Under the amendment, w.e.f. 1-6-2002, the substituted section 201(1) provides that where any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of the Income-tax Act; or by an employer referred to in section 192(1A), does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under the Income-tax Act, then, such person shall be deemed to be an assessee in default in respect of such tax. No penalty shall be charged u/s. 221 from such person if the Assessing Officer is satisfied that such person has good and sufficient reasons for failure to deduct and pay such tax [Refer section 46 of the Finance Act, 2008].

(7) At present, section 203(3) provides that where the tax has been deducted or paid in accordance with the provisions of Chapter XVII-B on or after 1-4-2008, certificate for tax deducted referred to in section 203(1)/(2), is not required to be furnished. Under the amendment of section 203(3), the above date of 1-4-2008 has been extended to 1-4-2010. This means that the credit for tax deducted upto financial year 2009-10 (i.e., upto assessment year 2010-11) will be given only on production of certificate and tax deductor will be required to furnish certificate in respect of tax deducted at source before 1-4-2010 [Refer section 47 of the Finance Act, 2008].

(8) At present, section 206C(4) provides that any amount collected u/s. 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 credit shall be given to him for the amount so collected on the production of certificate furnished u/s. 206C(5) in the assessment for the assessment year for which such income is assessable. However, if the tax is collected on or after 1-4-2008 and paid u/s. 206C(3) to the credit of Central Government, the amount of tax collected and specified in the statement referred to in 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 for the assessment year for which such income is assessable without the production of certificate. Under the amendment, w.e.f. 1-4-2008, substituted section 206C(4) provides that any amount collected u/s. 206C and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person for the amount so collected in a particular assessment year in accordance with the rules to be framed by the Board from time to time [Refer section 48(a) of the Finance Act, 2008].

(9) At present, 1st proviso to section 206C(5) provides that where the tax has been collected u/s. 206C on or after 1-4-2008, certificate for collection of tax at source, referred to in section 206C(5), is not required to be furnished. Under the amendment of 1st proviso to section 206C(5), the above date of 1-4-2008 has been extended to 1-4-2010. This means that the credit for tax collected upto financial year 2009-10 (i.e., upto assessment year 2010-11) will be given only on production of certificate and tax collector will be required to furnish certificate in respect of tax collected before 1-4-2010 [Refer section 48(b) of the Finance Act, 2008].

*(iii) Rates of deduction of tax at source from "Salaries" and for computation of "advance tax"
during the financial year 2008-09:
Assessment year 2009-10:*

These rates are specified in Part III of the First Schedule to the Finance Act, 2008 [Refer pp. 30-31]. The salient features of the rates specified in the said Part III are as indicated hereafter.

Rates of income-tax:

(a) In the case of every individual or Hindu undivided family or association of persons or body of individuals or every artificial juridical person referred to in section 2(31)(vii) of the Income-tax Act, the exemption limit and rate structure is as under:

Income tax slab Total (taxable) income	Rates of income-tax in the case of:					
	an individual, HUF, etc. other than those referred to in (2) & (3)		an individual, being a woman resident in India, and below the age of 65 years at any time during the previous year		an individual, being resident in India, who is of the age of 65 years or more at any time during the previous year	
	(1)	(2)	(3)	(4)	(5)	(6)
	For A.Y. 2008-09	For A.Y. 2009-10	For A.Y. 2008-09	For A.Y. 2009-10	For A.Y. 2008-09	For A.Y. 2009-10
Upto Rs. 1,10,000	NIL	NIL	NIL	NIL	NIL	NIL
Rs. 1,10,010 to Rs. 1,45,000	10%	NIL	NIL	NIL	NIL	NIL
Rs. 1,45,010 to Rs. 1,50,000	10%	NIL	10%	NIL	NIL	NIL
Rs. 1,50,010 to Rs. 1,80,000	20%	10%	20%	NIL	NIL	NIL
Rs. 1,80,010 to Rs. 1,95,000	20%	10%	20%	10%	NIL	NIL
Rs. 1,95,010 to Rs. 2,25,000	20%	10%	20%	10%	20%	NIL
Rs. 2,25,010 to Rs. 2,50,000	20%	10%	20%	10%	20%	10%
Rs. 2,50,010 to Rs. 3,00,000	30%	10%	30%	10%	30%	10%
Rs. 3,00,010 to Rs. 5,00,000	30%	20%	30%	20%	30%	20%
Above Rs. 5,00,000	30%	30%	30%	30%	30%	30%

(b) In the case of a co-operative society, the rate structure is the same as in the preceding assessment year,

(c) In the case of a firm, local authority, domestic company and foreign company, the flat rate of income-tax is the same as in the preceding assessment year, and

(d) In the case of all categories of assessee, flat rate of income-tax payable: (1) u/s. 111A (short-term capital gains) is 15%, as against 10% in the preceding assessment year; & (2) u/s. 112 (long-term capital gains) is same as in the preceding assessment year.

Rates of surcharge on income-tax:

(a) in the case of an individual, HUF, AOP and BOI having total (taxable) income exceeding Rs. 10,00,000, the rate of surcharge on income-tax is 10% as in the preceding assessment year. Provision of marginal relief where the total (taxable) income exceeds Rs. 10,00,000 is the same as in the preceding assessment year,

(b) in the case of artificial juridical person referred to in section 2(31)(vii) of the Income-tax Act, the rate of surcharge on income-tax is 10%, irrespective of quantum of total (taxable) income, as in the preceding assessment year,

(c) in the case of a firm, domestic company and foreign company having total (taxable) income exceeding Rs. 1,00,00,000, the rate of surcharge on income-tax is 10% (2.5% in the case of foreign company), as in the preceding assessment year. Provision of marginal relief where the total (taxable) income exceeds Rs. 1,00,00,000 is the same as in the preceding assessment year,

(d) in the case of a co-operative society & a local authority, surcharge on income-tax is not payable as in the preceding assessment year, and

(e) on the flat rate of income-tax payable u/s. 111A (short-term capital gains) & 112 (long-term capital gains), the rate of S.C. is @ 10% on the flat rate of income-tax in case of all categories of assessee other than a foreign company, co-operative society & local authority. In the case of a foreign company, the rate of S.C. on the flat rate of I.T. is 2.5%. In the case of co-operative society & local authority, S.C. on income-tax is not payable.

Rates of additional surcharge on I.T. and S.C., if any:

(a) In the case of all categories of assessee, aggregate of income-tax and surcharge, if any, chargeable at the scheduled rates, and flat rates u/s. 111A & 112, is to be further increased by an additional surcharge (i.e., Education Cess) calculated @ 2% of such aggregate amount of income-tax and surcharge, as in the preceding assessment year [Refer section 2(11) of the Finance Act, 2008],

(b) in the case of all categories of assessee, aggregate of income-tax and surcharge, if any, chargeable at the scheduled rates, and flat rates u/s. 111A & 112, is also to be increased by an additional surcharge (i.e., Secondary and Higher Education Cess) calculated @ 1% of such aggregate amount of income-tax and surcharge, as in the preceding assessment year [Refer section 2(12) of the Finance Act, 2008].

II. IMPORTANT AMENDMENTS IN THE INCOME-TAX ACT, 1961:**1. Amendments to provisions relating to exemption from total income:****1.1 DEFINITION OF AGRICULTURAL INCOME TO INCLUDE INCOME DERIVED FROM SAPLINGS OR SEEDLINGS GROWN IN A NURSERY:**

[Insertion of new Explanation 3 in section 2(1A) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 3(a) of the Finance Act, 2008]

At present, section 2(1A) defines the term 'agricultural income'. 'Agricultural income' means: (1) any rent or revenue derived from land in India and is used for agricultural purposes; (2) any income derived from such land by agriculture, etc.; and (3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, etc., subject to conditions. However, as per the present definition of 'agricultural income', if nursery is maintained independently without resorting to basic operations on land, then income from such nursery would not be agricultural income and would be liable to be included in the total income and provisions of section 10(1) exempting agricultural income would not apply. Under the amendment, *Explanation 3* inserted in section 2(1A), provides that for the purposes of section 2(1A), any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income in relation to assessment year 2009-10 and subsequent years and it will be exempt u/s. 10(1).

1.2 EXEMPTION OF INCOME OF A SIKKIMESE INDIVIDUAL:

[Insertion of new section 10(26AAA) w.e.f. 1-4-1990 (assessment year 1990-91 and onwards). Refer section 4(a) of the Finance Act, 2008]

Newly inserted section 10(26AAA), w.e.f. 1-4-1990 (assessment year 1990-91 and onwards), grants exemption to any income, which accrues or arises to 'Sikkimese' individual from any source in the State of Sikkim or by way of dividend or interest on securities. This exemption is not available to a Sikkimese woman who, on or after 1-4-2008, marries an individual who is not a Sikkimese. For the definition of the term 'Sikkimese', refer *Explanation* to section 10(26AAA).

1.3 EXEMPTION OF INCOME OF COIR BOARD:

[Insertion of new clause (h) in section 10(29A) w.e.f. 1-4-2002 (assessment year 2002-03 and onwards). Refer section 4(c) of the Finance Act, 2008]

At present, section 10(29A) grants exemption to any income accruing or arising to: (a) the Coffee Board; (b) the Rubber Board; (c) the Tea Board; (d) the Tobacco Board; (e) the Marine Products Export Development Authority; (f) the Agricultural and Processed Food Products Export Development Authority; and (g) the Spices Board. Under newly inserted clause (h) in section 10(29A), exemption has been extended also to any income accruing or arising to the Coir Board established u/s. 4 of the Coir Industry Act, 1953 in relation to assessment year 2002-03 and subsequent years.

1.4 EXEMPTION OF ANY AMOUNT RECEIVED AS A LOAN IN A TRANSACTION OF REVERSE MORTGAGE:

[Insertion of new section 10(43) w.e.f. 1-4-2008 (assessment year 2008-09 and onwards). Refer section 4(d) of the Finance Act, 2008]

Newly inserted section 10(43), w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), grants exemption in respect of any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in section 47(xvi). For the notes on newly inserted section 47(xvi), refer para 4.1(B) on page 39.

1.5 EXEMPTION OF INCOME OF AN AGRICULTURAL PRODUCE MARKET COMMITTEE OR BOARD:

[Insertion of new section 10(26AAB) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 4(b) of the Finance Act, 2008]

Newly inserted section 10(26AAB), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), grants exemption to any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce.

1.6 EXEMPTION OF INCOME OF UNDERTAKING SPECIFIED U/S. 10A & 10B, TERMINAL DATE OF EXEMPTION EXTENDED FROM ASSESSMENT YEAR 2009-10 TO 2010-11:

[Amendment of sections 10A(1) & 10B(1) w.e.f. 1-4-2008. Refer sections 5 & 6 of the Finance Act, 2008]

At present: (a) income of industrial undertaking from the export of articles or things or computer software is exempt u/s. 10A(1) [For details, refer para 3.9 on page 205]; & (b) income of hundred per cent. export-oriented undertaking from export of articles or things or computer software is exempt u/s. 10B(1) [For details, refer para 3.11 on page 205]. However, under 4th proviso to section 10A(1)/3rd proviso to section 10B(1), the exemption is available only upto assessment year 2009-10. Under the amendment of the said proviso to section 10A(1)/10B(1), the terminal date of exemption is extended by further one assessment year i.e., exemption will be available up to assessment year 2010-11 as against up to assessment year 2009-10.

2. Amendment to provision relating to income of charitable or religious trusts:**2.1 SUBSTITUTION OF DEFINITION OF THE TERM "CHARITABLE PURPOSE":**

[Substitution of section 2(15) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 3(b) of the Finance Act, 2008]

At present, section 2(15) defines the term 'charitable purpose' to include relief of the poor, education, medical relief and the advancement of any other object of general public utility. Under substituted section 2(15), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), the advancement of any other object of general public utility shall not be treated as charitable purpose, if it involves the carrying on of –

- (1) any activity in the nature of trade, commerce or business, or
- (2) any activity of rendering any service in relation to any trade, commerce or business,

for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity [Vide proviso to substituted section 2(15)].

3. Amendments relating to computation of business or professional income:**3.1 WEIGHTED DEDUCTION FOR SUM PAID TO A COMPANY TO BE USED BY SUCH COMPANY FOR SCIENTIFIC RESEARCH:**

[Insertion of new section 35(1)(ia) & 35(2AB)(6) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 7(a) & 7(b) of the Finance Act, 2008]

At present, under the provisions of section 35, expenditure on scientific research is allowed as a deduction from business/professional income at 100%/125%/150% [For further details, refer item (7) on page 116].

(A) Newly inserted section 35(1)(ia), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides that any sum paid to a company to be used by such company for scientific research is eligible for a weighted deduction of one and one-fourth times (i.e., 125%) thereof provided such company: (a) is registered in India, (b) has as its main object the scientific research and development, (c) is, approved by the prescribed authority in the prescribed manner, and (d) fulfils such other conditions as may be prescribed.

(B) Newly inserted section 35(2AB)(6), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides that a company approved under the provisions of newly inserted section 35(1)(ia) [Refer (A) above] will not be entitled to claim a weighted deduction of 150% in respect of expenditure referred to in section 35(2AB)(1) which is incurred after 31-3-2008 [For the notes on section 35(2AB), refer sub-item (f) of item (7) on page 117].

3.2 PROVISIONS OF SECTION 35D RELATING TO AMORTISATION OF CERTAIN PRELIMINARY EXPENSES, EXTENDED TO ALL UNDERTAKINGS/UNITS:

[Amendment of section 35D w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 8 of the Finance Act, 2008]

At present, provision of section 35D provides for the amortisation of certain preliminary expenses incurred by an Indian company or a resident (other than a company) before the commencement of business or in connection with the extension of an industrial undertaking or setting up of a new industrial unit [For further details, refer item (14) on page 120].

Under the amendment of section 35D, w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), the provisions of amortisation of certain preliminary expenses has been extended to all sectors for the extension of an undertaking or the setting up of a new unit.

3.3 SECURITIES TRANSACTION TAX/COMMODITIES TRANSACTION TAX, PAID BY THE ASSESSEE ALLOWABLE AS BUSINESS EXPENDITURE:

[Insertion of new clauses (xv) and (xvi) in section 36(1) & omission of section 40(a)(ib) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer sections 9 and 10(b) of the Finance Act, 2008]

(A) At present, where the total (taxable) 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 is entitled under section 88E 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 paid by him in respect of taxable securities transactions entered into in the course of his business during that previous year [For details, refer item (9) on page 229]. Deduction u/s. 88E as stated above is not allowable from assessment year 2009-10 and onwards [Refer Para 6.1 on page 42]. In lieu of this deduction u/s. 88E, newly inserted clause (xv) in section 36(1), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides that deduction will be allowed as business expenditure for an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, subject to condition that the income arising from such taxable securities transactions is included in

the income computed under the head “Profits and gains of business or profession”. At present, any sum paid on account of securities transaction tax is not allowable as a business expenditure under section 40(a)(ib). Under the amendment, section 40(a)(ib) is omitted w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). This amendment is consequent to insertion of new clause (xv) in section 36(1) allowing such payment as business expenditure from the said assessment year.

(B) A new tax called “Commodities Transaction Tax” is to be levied on taxable commodities transactions entered in recognised associations [Vide sections 102 to 121 of the Finance Act, 2008. For the notes, refer Para 10.1 on page 46]. Newly inserted clause (xvi) in section 36(1), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides that deduction will be allowed as business expenditure for an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into the course of his business during the previous year, subject to condition that the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

3.3A AMOUNTS NOT DEDUCTIBLE AS BUSINESS/PROFESSIONAL EXPENDITURE U/S. 40(a)(ia), AMENDED:

[Amendment of section 40(a)(ia) w.e.f. 1-4-2005 (assessment year 2005-06 and onwards). Refer section 10(a) of the Finance Act, 2008]

At present, any interest, commission or brokerage, rent, royalty, fees for professional/technical services payable to a resident, or amounts payable to a resident contractor/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 as 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 any 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 tax has been paid.

Under the amendment of section 40(a)(ia) & proviso thereto, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that the tax deductible at source under Chapter XVII-B, will not be allowed as a deduction if such tax has not been deducted or, after deduction, has not been paid: (a) on or before the due date specified in section 139(1) in a case where the tax was deductible and was so deducted during the last month of the previous year (i.e., month of March); or (b) on or before the last day of the previous year in a case where the tax was deductible and was so deducted during any other month (other than the month of March) of the previous year. However, in respect of any such sum, if tax has been deducted in any subsequent year, or has been deducted: (a) during the last month of the previous year (i.e., month of March) but paid after the said due date; or (b) during any other month (other than the month of March) of the previous year but paid after the end of the previous year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

3.4 DISALLOWANCE OF CASH EXPENDITURE EXCEEDING Rs. 20,000 IN A DAY:

[Substitution of section 40A(3) and insertion of section 40A(3A) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 11 of the Finance Act, 2008]

At present, where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding Rs. 20,000 otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the whole of such expenditure shall not be allowed as a deduction [For details, refer item (iii) on page 129].

Under substituted section 40A(3), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), where the assessee incurs any expenditure in respect of which *a payment or aggregate of payments made to a person in a day*, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds Rs. 20,000, the whole of such expenditure shall not be allowed as a deduction.

Newly inserted section 40A(3A), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides that where any liability for any expenditure incurred is allowed as a deduction on accrual basis in the relevant assessment year, and subsequently during any previous year (hereinafter referred to as subsequent year), the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year, if the *payment or aggregate of payments made to a person in a day*, exceeds Rs. 20,000. However, no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession u/s. 40A(3) & 40A(3A) where *a payment or aggregate of payments made to a person in a day*, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds Rs. 20,000, in such cases and under such circumstances as may be prescribed,

having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

3.5 CLARIFICATION REGARDING DEFINITION OF WRITTEN DOWN VALUE U/S. 43(6):

[Insertion of new Explanation 6 in section 43(6) w.e.f. 1-4-2003 (assessment year 2003-04 and onwards). Refer section 12 of the Finance Act, 2008]

Section 43(6) defines the term written down value (WDV) [For details, refer item (x) on page 105]. Section 43(6)(b) provides that WDV in the case of assets acquired before the previous year means the actual cost less all depreciation actually allowed to him under the Income-tax Act. Newly inserted *Explanation 6* in section 43(6), w.e.f. 1-4-2003 (assessment year 2003-04 and onwards), provides that where an assessee was not required to compute his total income for the purposes of the Income-tax Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(1) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(2) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under the Income-tax Act for the purposes of section 43(6); and

(3) the depreciation actually allowed as in (2) above shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

3.6 BOOK PROFIT PROVISIONS IN RELATION TO DEEMED INCOME OF CERTAIN COMPANIES U/S. 115JB, AMENDED:

[Explanation to section 115JB renumbered as Explanation 1, insertion of new clauses (h) & (viii) thereto and Explanation 2 to section 115JB w.e.f. 1-4-2001 (assessment year 2001-02 and onwards). Refer section 23 of the Finance Act, 2008]

The *Explanation* to section 115JB defines the term “book profit” [For details, refer sub-item (III) of item (A) on page 130].

Under the amendment, newly inserted clauses (h) & (viii) in the renumbered *Explanation 1* to section 115JB, w.e.f. 1-4-2001 (assessment year 2001-02 and onwards), provides that book profit: (a) is also to be increased by the amount of deferred tax and the provision therefor, if debited to the profit and loss account [Vide new clause (h)]; & (b) is also to be reduced by the amount of deferred tax, if any such amount is credited to the profit and loss account [Vide new clause (viii)].

Newly inserted *Explanation 2* to section 115JB, w.e.f. 1-4-2001 (assessment year 2001-02 and onwards), provides that for the purposes of clause (a) of the *Explanation 1* (i.e., the amount of income-tax paid or payable, and the provision therefor), the amount of income tax shall include: (1) any tax on distributed profits u/s. 115-O or on distributed income u/s. 115R; (2) any interest charged under the Income-tax Act; (3) surcharge, if any, as levied by the Central Acts from time to time; and (4) Education Cess/Secondary and Higher Education Cess, on income-tax, if any, as levied by the Central Acts from time to time.

4. Amendments relating to computation of capital gains:

4.1 TRANSACTIONS NOT REGARDED AS TRANSFER U/S. 47, AMENDED:

[Insertion of new clauses (xa) & (xvi) in section 47 w.e.f. 1-4-2008 (assessment year 2008-09 and onwards). Refer section 14(a) & 14(b) of the Finance Act, 2008]

For the notes on provisions relating to transactions not regarded as transfer u/s. 47, refer item 3 on page 141. Since the transactions specified in section 47 are not considered as a transfer of capital assets the capital gains, if any, which arise from such transactions are totally exempt from tax.

(A) Newly inserted clause (xa) in section 47 provides that any transfer by way of conversion of Foreign Currency Convertible Bonds referred to in section 115AC(1)(a) into shares or debentures of any company also shall not be considered as transfer of capital asset and capital gains, if any, which arise from such transfer will be totally exempt from tax in relation to assessment year 2008-09 and subsequent years.

(B) Newly inserted clause (xvi) in section 47 provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government also shall not be considered as transfer of capital asset and capital gains, if any, which arise from such transfer will be totally exempt from tax in relation to assessment year 2008-09 and subsequent years. It may be noted that the alienation of the mortgaged property by the mortgagee for the purposes of recovering the loan will be treated as transfer and the borrower (i.e., mortgager) will be liable to tax on capital gains, if any, arising out of such alienation.

4.2 *PROVISIONS RELATING TO COST WITH REFERENCE TO CERTAIN MODES OF ACQUISITION U/S. 49(2A), SUBSTITUTED:*

[Substitution of section 49(2A) w.e.f. 1-4-2008 (assessment year 2008-09 and onwards). Refer section 15 of the Finance Act, 2008]

At present, where the shares or debentures in a company, received on conversion of 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 debenture, debenture-stock, or deposit certificates.

Under substituted section 49(2A), provisions of section 49(2A) as discussed above has been extended also to conversion of Foreign Currency Convertible Bonds referred to in newly inserted section 47(xa) [Refer Para 4.1(A) on page 39] in relation to assessment year 2008-09 and onwards. That is to say that where the shares or debentures in a company, received on conversion of the said Bonds, are sold, the cost of acquisition of such shares or debentures will be the value extinguished out of the said Bonds.

4.3 *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 OF 15% AS AGAINST 10%:*

[Amendment of section 111A(1)(i) & proviso to section 115AD(1) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer sections 21 and 22 of the Finance Act, 2008]

At present, in the case of an assessee, any income arising from the transfer of 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 chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004, such short-term capital gains is taxed at the flat rate of 10% as income-tax u/s. 111A(1)(i) [For details, refer item 7 on page 161]. Under the amendment, said flat rate of 10% has been increased to 15% as income-tax in relation to assessment year 2009-10 and subsequent years. Consequential amendment is also made in the proviso to section 115AD(1) so as to increase this flat rate of 10% to 15% in relation to such short-term capital gains from the said assessment year.

5. Amendments to provisions pertaining to deduction from gross total income:**5.1** *DEPOSIT, IN AN ACCOUNT UNDER SENIOR CITIZENS SAVINGS SCHEME RULES, 2004/AS 5 YEAR TIME DEPOSIT IN AN ACCOUNT UNDER POST OFFICE TIME DEPOSIT RULES, 1981, INCLUDED IN SPECIFIED SAVINGS QUALIFYING FOR DEDUCTION FROM GROSS TOTAL INCOME U/S. 80C:*

[Insertion of new clauses (xxiii) and (xxiv) in section 80C(2) and new section 80C(6A) w.e.f. 1-4-2008 (assessment year 2008-09 and onwards). Refer section 16(a) and 16(b) of the Finance Act, 2008]

At present, deduction from gross total income is allowable on specified savings listed in section 80C(2) [For details, refer (i) on page 210]. Under newly inserted clauses (xxiii) and (xxiv) in section 80C(2), w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), deposit, in an account under the Senior Citizens Savings Scheme Rules, 2004 and as 5 year time deposit in an account under the Post Office Time Deposit Rules, 1981, respectively, is also eligible for deduction u/s. 80C(1) within the overall ceiling limit of Rs. 1,00,000 including other specified savings such as contribution to PPF, PF, LIP paid, etc.

Newly inserted section 80C(6A), w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), provides that if any amount, including interest accrued thereon, is withdrawn from the account referred to in the newly inserted clauses (xxiii) or (xxiv) of section 80C(2), before the expiry of the period of 5 years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year. However, amount liable to tax shall not include: (a) any amount of interest, relating to deposits in the said clauses (xxiii) or (xxiv), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and (b) where any amount is received by the nominee or the legal heir of the assessee, except interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year. Such interest shall be liable to tax.

5.2 *ADDITIONAL DEDUCTION FOR HEALTH INSURANCE PREMIA PAID FOR PARENTS, ALLOWABLE U/S. 80D:*

[Substitution of section 80D w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 17 of the Finance Act, 2008]

Section 80D provides for deduction in respect of medical insurance premia paid by an individual/HUF by any mode of payment other than cash. The ceiling limit of deduction is Rs. 15,000 in the case of an individual/HUF and in the case of senior citizen is Rs. 20,000, subject to conditions [For details, refer item (v) on page 213].

W.e.f. 1-4-2009 (assessment year 2009-10 and onwards), under the substituted section 80D, in the case of an assessee being an individual, an additional deduction up to Rs. 15,000 will be allowed on payment made

to effect or keep in force an insurance on the health of his/her parent or parents. The earlier condition of 'dependant' with respect to parents is dispensed with. The existing deduction up to Rs. 15,000 in respect of payment made to effect or keep in force an insurance on the health of the assessee (i.e., self) or his family (i.e., his spouse and dependant children) is continued in the substituted section 80D. If either of the parents or any member of the family of an assessee being an individual, who has been medically insured, is a senior citizen (i.e., aged 65 years or more), the deduction would be up to Rs. 20,000. Where the assessee is a HUF, the aggregate medical insurance premia paid to effect or keep in force a medical insurance on the health of any member of HUF, the deduction allowable is up to Rs. 15,000, as before. If any member of the said HUF is a senior citizen (i.e., aged 65 years or more), the deduction will be up to Rs. 20,000, as before.

To illustrate, for assessment year 2009-10, if Mr. A has paid medical insurance premia on his health and on the health of his wife Mrs. A and dependant children Mr. B and Mr. C amounting to Rs. 14,000 and on the health of his parents Mr. X and Mrs. Y amounting to Rs. 18,000. Mr. A will be allowed a deduction of Rs. 29,000 (Rs. 14,000 *plus* Rs. 15,000, instead of Rs. 15,000 allowed earlier) if neither parent of Mr. A is a senior citizen. If either of Mr. A's parents is a senior citizen, then, Mr. A will be allowed a deduction of Rs. 32,000 (Rs. 14,000 *plus* Rs. 18,000). Further, in the above illustration, if the cost of insurance on health of his parent Mr. X being a senior citizen (i.e., aged 65 years or more) is say Rs. 33,000, out of which Rs. 18,000 is paid by Mr. A and Rs. 15,000 by Mr. X, out of their respective taxable income, Mr. A will be allowed deduction of Rs. 32,000 (Rs. 14,000 *plus* Rs. 18,000, instead of Rs. 18,000 allowed earlier). Mr. X will be allowed deduction of Rs. 15,000 in respect of the said insurance premia paid by him.

5.3 PROVISION FOR DEDUCTION FOR REFINING MINERAL OIL, AMENDED/HOSPITAL LOCATED IN CERTAIN AREAS ELIGIBLE FOR DEDUCTION FOR 5 YEARS, PROVIDED:

[Insertion of 3rd proviso to section 80-IB(9) w.e.f. 1-4-2008/insertion of new section 80-IB(11C) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 18(a) and 18(b) of the Finance Act, 2008]

(A) At present, an undertaking which begins refining of mineral oil on or after 1-10-1998 is eligible for deduction u/s. 80 IB(9) read with 2nd proviso thereto, subject to conditions. The rate of deduction is @ 100% of profits for a period of 7 consecutive assessment years including the initial assessment year [For details, refer item (9) on page 226]. Under the amendment, newly inserted 3rd proviso to section 80-IB(9), w.e.f. 1-4-2008, provides that where such undertaking begins refining of mineral oil on or after 1-4-2009, deduction u/s. 80-IB(9) will be allowed in respect of such undertaking subject to conditions that such undertaking: (a) is wholly owned by a public sector company or any other company in which a public sector company or companies hold at least 49% of the voting rights; (b) is notified by the Central Government in this behalf on or before 31-5-2008; & (c) begins refining not later than 31-3-2012.

(B) Newly inserted section 80-IB(11C), w.e.f. 1-4-2009 (assessment year 2009-10 and onwards), provides for deduction in respect of profits and gains derived by an undertaking from the business of operating and maintaining a hospital located anywhere in India, other than excluded area³, subject to conditions that –

(1) the hospital is constructed⁴ and has started or starts functioning at any time during the period beginning on 1-4-2008 and ending on 31-3-2013;

(2) the hospital has at least 100 beds for patients;

(3) the construction of the hospital is in accordance with the regulations or by-laws of the local authority; and

(4) the assessee is required to furnish along with the return of income, a report of an audit in the Form to be prescribed and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* to section 288(2), certifying that the deduction has been correctly claimed.

The quantum of deduction is @ 100% of such profits and gains for 5 consecutive assessment years beginning with the initial assessment year. 'Initial assessment year' means the assessment year relevant to the previous year in which the business of the hospital starts functioning.

5.4 HOTEL LOCATED IN SPECIFIED DISTRICT HAVING A WORLD HERITAGE SITE, ELIGIBLE FOR DEDUCTION AT 100% FOR 5 ASSESSEMENT YEARS:

[Insertion of clause (iii) in section 80-ID(2) and clause (e) in section 80-ID(6) w.e.f. 1-4-2009 (assessment year 2009-10 and onwards). Refer section 19 of the Finance Act, 2008]

At present, the undertaking engaged in the eligible business of hotel and convention centre in the specified area, subject to conditions, is eligible for deduction @ 100% of the profits and gains, derived by such undertaking for

3. "excluded area" shall mean an area comprising : (a) urban agglomeration of Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bangalore and Ahmedabad; (b) District of Faridabad, Gurgaon, Gautam Budh Nagar, Ghaziabad & Gandhinagar; and (c) City of Secunderabad. The area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.

4. 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 local authority concerned.

5 consecutive assessment year beginning from the initial assessment year [For details, refer item (xix) on page 220]. Under the amendment, the deduction u/s. 80D(2) available to an undertaking engaged in the business of a hotel in the specified area has been extended also to an undertaking engaged in the business of a hotel of two-star, three-star or four-star category located in 'specified district having a World Heritage Site'⁵ in relation to assessment year 2009-10 and subsequent years, subject to condition that such hotel is constructed and has started or starts functioning at any time during the period beginning on 1-4-2008 and ending on 31-3-2013. The other conditions specified in section 80-ID will apply to such hotel.

6. Amendment to provision relating to rebate of (deduction from) income-tax:

6.1 WITHDRAWAL OF DEDUCTION FROM INCOME-TAX U/S. 88E IN RESPECT OF SECURITIES TRANSACTION TAX:

[Insertion of new section 88E(3) w.e.f. 1-4-2008. Refer section 20 of the Finance Act, 2008]

At present, section 88E provides that where the total (taxable) 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 [For details, refer item (9) on page 229]. Under the amendment, newly inserted section 88E(3) provides that no deduction u/s. 88E shall be allowed in relation to assessment year 2009-10 and subsequent years. However, the said STT paid will be allowed as business expenditure under newly inserted section 36(1)(xv) [For details, refer Para 3.3(A) on page 37].

7. Amendments relating to assessment procedure:

7.1 'DUE DATE' OF FURNISHING RETURN OF INCOME U/S. 139(1)/SPECIFIED DATE U/S. 44AB, ADVANCED FROM 31ST OCTOBER TO 30TH SEPTEMBER:

[Amendment of Explanation 2(a) to section 139(1)/Explanation (ii) to section 44AB w.e.f. 1-4-2008. Refer section 30(a)/13 of the Finance Act, 2008]

At present, under *Explanation 2(a)* to section 139(1), 'due date' of furnishing return of income is 31st October of the assessment year, where the assessee is a company; or a person (other than a company) whose accounts are required to be audited under the Income-tax Act or any other law; or a working partner of a firm whose accounts are required to be audited under the Income-tax Act or any other law. Under the amendment of said *Explanation*, w.e.f. 1-4-2008, the said 'due date' has been advanced from 31st October to 30th September. Accordingly 'due date' for furnishing return of income in the case of assessee referred to above in relation to assessment year 2008-09 and subsequent years will be 30th September. For the other categories of assessee the 'due date' is same as at present, i.e., 31st July of the assessment year.

At present, under *Explanation (ii)* to section 44AB, 'specified date' to get accounts audited is 31st October of the assessment year. Under the amendment of said *Explanation*, w.e.f. 1-4-2008, the said 'specified date' has been advanced from 31st October to 30th September. Accordingly, 'specified date' to get accounts audited in relation to assessment year 2008-09 and subsequent years will be 30th September.

7.2 RETURN OF INCOME TO BE ACCOMPANIED BY PROOF OF TAX DEDUCTED AT SOURCE/TAX COLLECTED AT SOURCE:

[Amendment of Explanation (c)(i) to section 139(9) w.e.f. 1-4-2008. Refer section 30(b) of the Finance Act, 2008]

Section 139(9) relates to provisions relating to defective return. Requirements to be fulfilled under *Explanation* thereto prescribes the conditions to be fulfilled so that a return shall not be regarded as defective. One of the said condition is that the return is accompanied by proof of the tax, if any, claimed to have been deducted at source or collected at source before 1-4-2008 and the advance tax and tax on self-assessment, if any, claimed to have been paid [For details, refer item (iii) on page 178]. This means that where the return is not accompanied by proof of tax deducted at source or tax collected at source after 1-4-2008, will not be treated as defective return u/s. 139(9). Under the amendment of *Explanation (c)(i)* to section 139(9), the words, figures and letters "before 1-4-2008" have been omitted. Consequently, the return will have to be accompanied by proof of tax deducted at source or tax collected at source even after 1-4-2008, along with proof of advance tax and tax on self-assessment; otherwise the return will be treated as defective. Accordingly, certificates in respect of tax deducted at source or tax collected at source will have to be enclosed with the return for assessment year 2008-09 and onwards, in order to avoid the return from being treated as defective by the Assessing Officer.

5. 'specified district having a World Heritage Site' means districts of Agra, Jalgaon, Aurangabad, Kancheepuram, Puri, Bharatpur, Chhatrapur, Thanjavur, Bellary, South 24 Parganas (excluding areas falling within the Kolkata urban agglomeration on the basis of the 2001 census), Chamoli, Raisen, Gaya, Bhopal, Panchmahal, Kamrup, Goalpara, Nagaon, North Goa, South Goa, Darjeeling and Nilgiri [Section 80-ID (6)(c)].

7.3 ASSESSING OFFICER MAY SUO MOTU EXTEND THE TIME FOR COMPLETION OF SPECIAL AUDIT U/S. 142(2A):

[Amendment of proviso to section 142(2C) w.e.f. 1-4-2008. Refer section 31 of the Finance Act, 2008]

At present, under section 142(2A) to 142(2D), the Assessing Officer (AO) may order special audit of the accounts of the assessee, subject to conditions specified therein [For details, refer Para 2 of item (ii)(B) on page 180]. Under the proviso to section 142(2C), the AO may extend the time limit within which the said audit report is to be furnished, on an application made by the assessee. Under the amendment of the said proviso, w.e.f. 1-4-2008, the AO may extend the said time limit either on his own (i.e., *suo motu*) or on application made by the assessee.

7.4 PROVISIONS RELATING TO ACCEPTANCE OF RETURN WITHOUT CALLING THE ASSESSEE, SUBSTITUTED:

[Substitution of section 143(1)/115WE(1) and insertion of section 143(1A) to (1C)/115WE(1A) to (1C) w.e.f. 1-4-2008. Refer sections 32(a)/28(A) of the Finance Act, 2008]

At present, section 143(1) deals with acceptance of return without calling the assessee [For details, refer item (ii)(A) on page 179]. There is no provision at present to make *prima facie* adjustments or correct arithmetical errors in the return. The substituted section 143(1), w.e.f. 1-4-2008, provides that the total income or loss of an assessee shall be computed u/s. 143(1) after making the following adjustments to the total income or loss in the return-

(a) any arithmetical error in the return; or

(b) an incorrect claim, if such incorrect claim is apparent from any information in the return. The *Explanation* (a) to section 143(1) defines the term “an incorrect claim apparent from any information in the return” as such claim on the basis of any entry, in the return: (1) of an item, which is inconsistent with another entry of the same or some other item in such return; (2) in respect of which, information required to be furnished to substantiate such entry, has not been furnished under the Income-tax Act; and (3) in respect of deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

The tax and interest, if any, shall be computed on the basis of total income computed as above and intimation shall be sent to the assessee accordingly. Similarly, refund if any due shall be granted to the assessee on the basis of the income so computed. Intimation shall also be sent to the assessee where the loss declared in the return is adjusted, but no tax or interest or refund is due [1st proviso to section 143(1)]. Intimation shall be sent before the expiry of one year from the end of the financial year in which the return is filed [2nd proviso to section 143(1)]. The acknowledgement of the return shall be deemed to be intimation, in cases where no tax or refund is due and where no adjustment is made [*Explanation* (b) to section 143(1)].

The Board may formulate a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or refund due to, the assessee [Section 143(1A)]. For the purpose of giving effect to the scheme made u/s. 143(1A), the Central Government may issue a notification in the Official Gazette, directing that any of the provisions of the Income-tax Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. However, such direction shall not be issued after 31-3-2009 [Section 143(1B)]. Every notification issued u/s. 143(1B) and the scheme made u/s. 143(1A) shall be laid before each House of Parliament [Section 143(1C)].

Similar amendments have been made by substituting section 115WE(1) and insertion of section 115WE(1A) to (1C) w.e.f. 1-4-2008 in relation to processing of return of fringe benefits.

7.5 SERVICE OF NOTICE AND THE TIME LIMIT FOR ISSUANCE OF NOTICE, AMENDED:

[Substitution of proviso to section 143(2)(ii) and insertion of new section 292BB, w.e.f. 1-4-2008. Refer sections 32(b) & 56 of the Finance Act, 2008]

Section 143(2) deals with assessment after hearing assessee by the Assessing Officer [For details, refer item (ii)(B) on page 180]. At present, no notice of hearing shall be served on the assessee after the expiry of 12 months from the end of the month in which the return is furnished [Proviso to section 143(2)(ii)]. Under the amendment, substituted proviso, w.e.f. 1-4-2008, provides that no notice of hearing shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return is furnished.

Newly inserted section 292BB, w.e.f. 1-4-2008, provides that where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of the Income-tax Act has been duly served upon him in time in accordance with the relevant provisions of the said Act. Further, such assessee shall be precluded from taking any objection in any proceeding or inquiry under the said Act that the notice was: (1) not served upon him; or (2) not served upon him in time; and (3) served upon him in an improper manner. However, provisions of section 292BB shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment. Similar amendment has been made in the Wealth-tax Act by inserting section 42 [Refer section 66 of the Finance Act, 2008].

7.6 AMENDMENTS IN RESPECT OF REASSESSMENT PROCEEDINGS:

[Insertion of 2nd proviso to section 147/Explanation in section 151 w.e.f. 1-4-2008/1-10-1998. Refer sections 33/34 of the Finance Act, 2008]

Section 147 deals with assessment or reassessment of escaped income [For details, refer item (iii) on page 181]. At present there is no provision to invoke assessment or reassessment of escaped income u/s. 147 where the assessment is covered under appeal, reference or revision. Under the amendment, 2nd proviso inserted in section 147, w.e.f. 1-4-2008, provides that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment. Similar amendment has been made in the Wealth-tax Act by amendment of section 17(1) [Refer section 60(a) of the Finance Act, 2008].

The *Explanation* inserted in section 151, w.e.f. 1-10-1998, clarifies that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice u/s. 148, need not issue such notice himself. Similar amendment has been made in the Wealth-tax Act by amendment of section 17(1B) [Refer section 60(b) of the Finance Act, 2008].

7.7 PROVISIONS OF TIME LIMIT FOR COMPLETION OF ASSESSMENTS AND REASSESSMENTS, AMENDED:

[Insertion of new section 153(4)/2nd proviso in the Explanation 1 to section 153/amendment of proviso to Explanation 1 to section 153, w.e.f. 1-6-2003/1-6-2007/1-6-2003. Refer section 35(a)/35(b) of the Finance Act, 2008]

Section 153 deals with time limit for completion of assessment or reassessment [For details, refer item (iv) on page 181]. Newly inserted section 153(4), w.e.f. 1-6-2003, provides that notwithstanding anything contained in sections 153, 153A(2) and 153B(1), the order of assessment or reassessment, relating to any assessment year, which stands revived u/s. 153A(2), shall be made within 1 year from the end of the month of such revival or within the period specified in sections 153 or 153B(1), whichever is later. The amendment of the proviso to *Explanation 1* to section 153 is consequential to insertion of new section 153(4).

2nd proviso inserted in *Explanation 1* to section 153, w.e.f. 1-6-2007, provides that where a proceeding before the Settlement Commission abates u/s. 245HA, the period of limitation available u/s. 153 to the AO for making assessment, reassessment or re-computation, as the case may be, shall, after exclusion of the period u/s. 245HA(4), be not less than 1 year; and where such period of limitation is less than 1 year, it shall be deemed to have been extended to 1 year. For the purposes of determining the period of limitation u/s. 149, 153B, 154, 155, 158BE and 231 and for the purposes of paying interest u/s. 243 or 244 or 244A, this proviso will also apply accordingly.

7.8 PROVISION RELATING TO ASSESSMENT IN CASE OF SEARCH OR REQUISITION, AMENDED:

[Insertion of, new section 153A(2), Explanation (vii) to section 153B(1) and amendment of sections 153C and 153D w.e.f. 1-6-2003/1-6-2007. Refer sections 36 to 39 of the Finance Act, 2008]

Section 153A deals with assessment of search and seizure cases and time limits for completion of such assessment is prescribed in section 153B. Newly inserted section 153A(2), w.e.f. 1-6-2003, provides that in cases where assessment or reassessment in search and seizure case u/s. 153A(1) is annulled in appeal or any other legal proceeding, or abated under 2nd proviso to section 153A(1), the annulled or abated assessment shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. However, where such order of annulment is set aside, such revival shall cease to have effect. *Explanation (vii)* inserted in section 153B(1), w.e.f. 1-6-2003, provides that the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in section 153A(2) till date of the receipt of the order setting aside the order of such annulment, by the Commissioner, shall be excluded in computing the period of limitation for the purposes of section 153B. Consequential amendments have been made in sections 153C [w.e.f. 1-6-2003] and 153D [w.e.f. 1-6-2007].

7.9 INTIMATION u/s. 143(1) DEEMED TO BE NOTICE OF DEMAND:

[Insertion of proviso to section 156 w.e.f. 1-4-2008. Refer section 40 of the Finance Act, 2008]

At present, demand notice is issued where any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under the Income-tax Act. Under the amendment, proviso inserted in section 156, w.e.f. 1-4-2008, provides that where any sum is determined to be payable by the assessee u/s. 143(1), the intimation u/s. 143(1) shall be deemed to be a notice of demand for the purposes of section 156.

8. Amendments to provisions relating to fringe benefit tax levied on employer:**8.1 AMENDMENTS TO PROVISIONS RELATING TO VALUE OF FRINGE BENEFITS PROVIDED TO EMPLOYEE CHARGEABLE TO FRINGE BENEFIT TAX IN THE HANDS OF THE EMPLOYER:**

[Amendment of sections 115WB(1), 115WB(2), 115WC(1), 115WE(2) and 115WD(1), substitution of section 115WE(1) and insertion of new section 115WKB w.e.f. 1-4-2008 (assessment year 2008-09 and onwards)/ 1-4-2009 (assessment year 2009-10 and onwards). Refer sections 25 to 29 of the Finance Act, 2008]

At present, sections 115W to 115WL contain special provisions for levy of additional income-tax [referred to as fringe benefit tax (FBT)] in respect of fringe benefits provided or deemed to have been provided by an

employer to his employees in respect of certain specified expenses incurred by the employer [For details, refer pp. 198-203].

Section 115WB(1) defines the term “fringe benefits”, section 115WB(2) prescribes the deemed fringe benefits and section 115WC prescribes the value of fringe benefits provided or deemed to have been provided, by the employer [For details, refer Table on pp. 199-200]. Following amendments are made in sections 115WB(1)/(2), 115WC(1), 115WD(1), 115WE(1)/(2) along with insertion of new section 115WKB.

(A) *Fringe benefits:* Section 115WB(1) defines the term ‘fringe benefits’. Fringe benefit means benefits, any consideration for employment provided by the employer to his employees, etc. [For details refer page 198]. Clause (d) in section 115WB(1), provides that any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), will be “fringe benefits” for the purposes of FBT. The *Explanation* (i) to the said clause defines ‘specified security’ as the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and includes employees’ stock option. Under the amendment of said *Explanation* (i), w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), revised definition of ‘specified security’ is given as the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities under such plan or scheme.

(B) *Expenditure incurred for the provision of hospitality u/s. 115WB(2)(B):* For the notes on section 115WB(2)(B), and specified expenditure which shall not be regarded as expenditure on provision of hospitality, refer Serial No. 4(B) of the Table on page 199. Under the sub-clause (iii) inserted in section 115WB(2)(B), any expenditure on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils the conditions as may be prescribed, also shall not be regarded as expenditure on provision of hospitality in relation to assessment year 2009-10 and subsequent years.

(C) *Expenditure incurred for employees’ welfare u/s. 115WB(2)(E):* For the notes on section 115WB(2)(E) and specified expenditure which shall not be regarded as expenditure incurred on employees’ welfare, refer Serial No. 4(E) of the Table on page 199. Under the substituted *Explanation* to section 115WB(2)(E), any expenditure incurred or payment made to: (1) provide crèche facility for the children of the employee; or (2) sponsor a sportsman, being an employee; or (3) organise sports events for employees, also shall not be regarded as expenditure for employees’ welfare in relation to assessment year 2009-10 and subsequent years.

(D) *Expenditure on maintenance of guest house u/s. 115WB(2)(K):* At present, expenditure on maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes is deemed fringe benefit u/s. 115WB(2)(K) [For details, refer Serial No. 4(K) of the Table on page 200]. Under the amendment, section 115WB(2)(K) is omitted, w.e.f. 1-4-2009, and hence, any expenditure on maintenance of any accommodation in the nature of guest house shall not be included in deemed fringe benefits and no fringe benefit tax is payable on such expenditure in relation to assessment year 2009-10 and subsequent years.

(E) *Value of fringe benefits:* Section 115WC provides for the computation of the value of fringe benefits [For details, refer Table on pp. 199-200]. At present, value of fringe benefits on account of expenditure incurred on festival celebrations is @ 50% of the expenditure incurred. Under the amendment of section 115WC(1)(c)/(d) in relation to assessment year 2009-10 and subsequent years, value of perquisite in respect of the said expenditure on festival celebrations is @ 20%, as against 50%, of the expenditure incurred.

(F) *Return of fringe benefits:* Section 115WD(1) specifies the ‘due date’ for furnishing return of fringe benefits [For details, refer page 201]. At present, in the case of an employer who is a company or a person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law, the ‘due date’ for furnishing return of fringe benefits is 31st October of the assessment year. Under the amendment of *Explanation* (a) to section 115WD(1), w.e.f. 1-4-2008, the said ‘due date’ has been advanced to 30th September of the assessment year and hence return of fringe benefits in relation to assessment year 2008-09 and subsequent years is to be furnished by 30th September as against 31st October. For the other categories of assessee the ‘due date’ is same as at present, i.e., 31st July of the assessment year.

(G) *Acceptance of return of fringe benefits without calling the assessee u/s. 115WE(1):* For the notes on section 115WE(1), refer ‘Assessment procedure’ on page 201. Under the amendment, section 115WE(1) is substituted and section 115WE(1A) to (1C) is inserted w.e.f. 1-4-2008. The amendments made in section 115WE(1) are similar to that of the amendment made in section 143(1) in respect of acceptance of return of income without calling the assessee. For the notes on amendments made in section 143(1), refer Para 7.4 on page 43].

At present, where the Assessing Officer decides to scrutinise the return of fringe benefits filed by the assessee, he will issue a notice u/s. 115WE(2) 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 notice has to be served before the expiry of 12 months from the end of the month in which the return is furnished [Vide proviso to section 115WE(2)]. Under the amendment of said proviso, w.e.f. 1-4-2008, such notice has to be served before the expiry of 6 months from the end of the financial year in which the return is furnished.

(H) *Deemed payment of tax by employee:* Newly inserted section 115WKB, w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), provides that where fringe benefit tax [with respect to allotment or transfer of specified securities or sweat equity shares referred to in section 115WB(1)(d)], has been paid by the employer and subsequently such tax is recovered from the employee, the recovery of fringe benefit tax shall be deemed to be

the tax paid by such employee in relation to the fringe benefit provided to him. The deeming provision shall apply only to the extent to which the amount of recovery relates to the value of fringe benefit provided to such employee. Further, the said employee shall not be entitled to claim any refund out of such deemed payment of tax; and shall not be entitled to claim any credit of such deemed payment of tax against tax liability on other income or against any other tax liability.

9. Miscellaneous amendments:

9.1 Insertion of new section 271(1B) w.e.f. 1-4-1989 by section 52 of the Finance Act, 2008. Section 271 deals with levy of penalty [Refer Penalty Chart on pp. 195-196]. Newly inserted section 271(1B) provides that where any amount is added or disallowed in computing total income or loss of an assessee in any order of assessment or reassessment and such order contains a direction for initiation of penalty proceedings u/s. 271(1)(c), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings u/s. 271(1)(c). Similar amendment has been made in the Wealth-tax Act by inserting new section 18(1A) [Refer section 62 of the Finance Act, 2008].

9.2 Insertion of new sections 273AA & 278AB w.e.f. 1-4-2008 by sections 53 & 54 of the Finance Act, 2008. These newly inserted sections 273AA/278AB provides for power of Commissioner to grant immunity from penalty/prosecution, subject to conditions. For text of the said sections, refer sections 53 & 54 of the Finance Act, 2008. Similar amendments have been made in the Wealth-tax Act, by inserting new sections 18BA & 35GA [Refer sections 63 & 65 of the Finance Act, 2008].

9.3 Insertion of new section 282A w.e.f. 1-6-2008 by section 55 of the Finance Act, 2008. Newly inserted section 282A provides that where any notice or other document is required to be issued, served or given, it shall be deemed to have been authenticated, if the name and office of a 'designated income-tax authority' is printed, stamped or otherwise written thereon. The term 'designated income-tax authority' is defined to mean any income-tax authority authorised by the Board for this purpose.

9.4 Amendment of section 292C w.e.f. 1-6-2002/1-10-1975 by section 57 of the Finance Act, 2008. Section 292C deals with presumption as to assets, books of account, etc. found in the possession or control of any person in the course of a search u/s. 132. Under the amendment, w.e.f. 1-6-2002, section 292C is renumbered as section 292C(1) and provisions of said sub-section is extended to survey u/s. 133A also. Newly inserted section 292C(2), w.e.f. 1-10-1975 provides that where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of section 292C(1) will apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in section 132A(1)(a)/(b)/(c), had been found in the possession or control of that person in the course of a search u/s. 132. Similar amendment has been made in the Wealth-tax Act, by amendment of section 42D [Refer section 67 of the Finance Act, 2008].

9.5 Sections 98 & 99 of the Finance (No. 2) Act, 2004 relating to charge of securities transaction tax (STT) and value of taxable securities transactions amended w.e.f. 1-6-2008. At present, in the case of sale of a derivative where the transaction of such sale is entered into a recognised stock exchange, the STT is at the rate of 0.017% and the same is payable by the seller. Under the amendment, w.e.f. 1-6-2008, securities transaction tax payable is at the rate of: (1) 0.017% on sale of futures in securities and payable by the seller; (2) 0.017% of the option premium on sale of an option in securities and payable by the seller; & (3) 0.125% of the settlement price on sale of an option in securities, where option is exercised, and payable by the purchaser [Refer section 124 of the Finance Act, 2008].

9.6 Section 95 of the Finance Act, 2005 relating to levy of banking cash transaction tax (BCTT) amended w.e.f. 1-4-2009. At present, BCTT is levied under Chapter VII of the Finance Act, 2005 (i.e., sections 93 to 112A of the said Act). Section 95(1) provides that BCTT shall be charged in respect of taxable banking transactions (TBT) entered into on or after 1-6-2005, at the rate of 0.1% of the value of every such TBT. Under the amendment, the newly inserted section 95(3) provides that no BCTT shall be charged in respect of any taxable banking transaction entered into on or after 1-4-2009 [Refer section 125(i) of the Finance Act, 2008].

10. Commodities Transaction Tax:

10.1 Chapter VII of the Finance Act, 2008. Chapter VII consists of sections 102 to 121 of the Finance Act, 2008. This Chapter shall come into force on the date to be notified by the Central Government. Under the provisions of sections 102 to 121 of the Finance Act, 2008, commodities transaction tax at the rate of percentage [specified in the Table to section 104 on page 22] on the value of taxable commodities 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 commodity derivative. The commodities transaction tax is on similar lines to securities transaction tax. The commodities transaction tax will be collected by the recognised association from purchaser and/or seller who enters into a taxable commodities transaction in that recognised association. The tax collected during any calendar month shall be paid by the recognised association to the credit of the Central Government by the 7th day of the month immediately following the said calendar month. The recognised association will have to file of a return at the end of each financial year to the Assessing Officer or to any other authority or agency authorised by the Board, in the prescribed form. For the purpose of Chapter VII, the recognised association is to be treated as an assessee. The assessment procedure is on the same lines as for income-tax assessment.

SHORT NOTES ON THE INCOME-TAX ACT, 1961**I. GENERAL****[From assessment year 2005-06 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 2005-06 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 [Refer item VI(i) on page 66]. 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 pendency 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 2006-07 and 2007-08 are completed during the financial year 2008-09, 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, 2006 and Part I of the First Schedule to the Finance Act, 2007, 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 2008-09 commenced from 1st April, 2008 and would end on 31st March, 2009.

(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 1-8-2007, his previous year for the assessment year 2008-09 would be of 8 months beginning from 1-8-2007 and ending on 31-3-2008 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 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 a 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 assessee is 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 ship¹ 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.

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 [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 1-7-2007 and again left India on 10-1-2008. 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 2008-09 [Section 6(1)(a)]. However, if his stay in India during the preceding four previous years (2003-04 to 2006-07) was less than 365 days and his stay in India during the previous year 2007-08 was also less than 182 days, he will be regarded as “non-resident” for the financial year ending on 31-3-2008 [Section 6(1)(c) read with *Explanation*].
- (2) Mr. A who is an Indian citizen or a person of Indian origin came on a visit to India on 1-7-2007. He left India on 10-1-2008 i.e., after a stay of more than 181 days (i.e., 194 days). Prior to 1-4-2007, he was in India for over 365 days during the four previous years 2003-04 to 2006-07. He will be regarded as “resident” for the assessment year 2008-09 as his stay in India during the previous year 2007-08 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 1-7-2007. He left India on 25-12-2007 i.e., after a stay of 178 days. Prior to 1-4-2007, he was in India for over 365 days during the preceding four previous years 2003-04 to 2006-07. Mr. A will be regarded as “non-resident” for the assessment year 2008-09 as his stay in India during the previous year 2007-08 was less than 182 days [Section 6(1)(c) read with *Explanation*].
- (4) Mr. A who is an Indian citizen leaves India on 25-9-2007, 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, 2008. He was in India for over 365 days during the preceding four previous years 2003-04 to 2006-07. For the assessment year 2008-09, 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 (i.e., 178 days) during the previous year 2007-08 [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 facing page 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 2003-04 to 2006-07. However, he did not visit India during the financial year 2007-08 except for 59 days. In this case, Mr. A will be regarded as “non-resident” for the assessment year 2008-09, as his stay in India during the financial year 2007-08 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 assessee. Accordingly, remaining categories of assessee are classified either as “resident” (which means “ordinarily resident”) or as “non-resident”, as the case may be.

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 [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 [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.

(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 be 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 48. In respect of Government servant who is a citizen of India and working in a 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)].

For the purposes of section 9, where the income is deemed to accrue or arise in India u/s. 9(1)(v)/(vi)/(vii) [Refer (b) & (c) above], such income shall be included in the total income of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India [*Explanation* to section 9].

(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) above.

ILLUSTRATION: For assessment year 2008-09, Mr. A, aged 50 years, has income from the following sources:—

Income in India:

(a) Income from house property in India	Rs. 25,000	
(b) Income from proprietary business in India	Rs. 90,000	
(c) Interest on debentures of Indian companies	Rs. 25,000	
Income in India	Rs. 1,40,000	Rs. 1,40,000

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. 1,80,000

If Mr. A is “resident and ordinarily resident in India”, his gross total income under the Income-tax Act will be Rs. 1,80,000. 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. 1,40,000 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. 1,40,000 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) 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 origin⁴:

[Chapter XII-A (Sections 115C 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 Indian⁵ from a foreign exchange asset is called “Investment income” [Section 115C(c)]. For this purpose, “foreign exchange asset” means any specified asset acquired or purchased with, or subscribed to in, convertible foreign exchange⁶. The assets so specified under section 115C(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. 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. “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.

(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 143)] 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.

(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”⁷ of an asset other than specified asset, such income shall be charged to tax at a flat rate of 20% by way of income-tax⁸. However, income by way of “long-term capital gains” of any specified asset (i.e., foreign exchange asset) shall be charged to tax at a flat rate of 10%, as against 20%, by way of income-tax⁸ [Section 115E].

Any income arising from the transfer of a *long-term capital asset*, being an equity share in a company is exempt u/s. 10(38) in relation to assessment year 2005-06 and subsequent years subject to conditions that the transaction of sale of such equity share is entered into on or after 1-10-2004 and such transaction is chargeable to securities transaction tax as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004. Any income arising from the transfer of a *short-term capital asset*, being equity share in a company will be chargeable u/s. 111A @ 10% by way of income-tax⁸ in relation to assessment year 2005-06 and subsequent years subject to conditions that the transaction of sale of such equity share is entered into on or after 1-10-2004, such transaction is chargeable to securities transaction tax as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004 and non-resident Indian exercises option u/s. 115-I [Refer sub-item (f) on facing page]. However, if such option is not exercised u/s. 115-I, it will be charged @ 20% by way of income-tax⁸ u/s. 115E(i).

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 48⁹]. Refer *Example* No. 4 on page 55.

(d) The income from foreign exchange assets (called investment income) and long-term capital gains of an asset other than specified asset will constitute a separate block of income and charged to tax at a flat rate of 20% by way of income-tax⁸. However, “long-term capital gains” of any specified asset (i.e., foreign exchange asset) will be charged to tax at a flat rate of 10%, as against 20%, by way of income-tax⁸ [Also refer 2nd para of item (c) above]. If the non-resident Indian has any other income in India, such other income will constitute an altogether separate block of income and charged to tax as if such other income were the total income. The aggregate of income-tax⁸ so calculated in respect of the said two blocks of income will be the tax payable for the relevant assessment year [Section 115E]. Refer *Example* No. (3) on page 54.

7. “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 137.

8. The income-tax so arrived at is to be increased by surcharge on income-tax in relation to: (a) assessment years 2005-06 to 2008-09 [Vide Paragraph A of Part I of the First Schedule to the Finance Act, 2005/2006/2007/2008]; and (b) assessment year 2009-10 [Vide Paragraph A of Part III of the First Schedule to the Finance Act, 2008]. Aggregate of I.T. & S.C. is to be increased by an additional surcharge on I.T. & S.C.

9. 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].

(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) on page 51]; or Savings certificates¹⁰ notified u/s. 10(4B).

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 115F].

(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 115H].

(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 115G].

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 2003-04 to 2007-08, is less than 182 days. His status for the purposes of section 6 is non-resident. His “investment income” in India during financial year 2007-08 (assessment year 2008-09) as a result of various investments made by him in foreign exchange asset is as under:

(i) Interest on Central Government securities	Rs.	40,000
(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.	45,000
Investment income	Rs.	1,20,000

At the time of payment of such “investment income”, the tax deducted at source is at the rate of 20% as I.T. *plus* Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% *plus* 1% on I.T. (i.e., 20.6%)

Rs. 24,720

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 2007-08 (assessment year 2008-09) is to be worked out as given hereunder:

Income accruing or arising in India (investment income)	Rs.	1,20,000
Less: Deduction in respect of interest on Central Government securities:		
Deduction u/s. 80L is not available as the said section is omitted from assessment year 2006-07 and onwards	Rs.	Nil
Total (taxable) income	Rs.	1,20,000
Tax deducted at source on Rs.1,20,000 @ 20.6%	Rs.	24,720
Less: I.T. <i>plus</i> Addl. S.C. payable on total (taxable) income of Rs. 1,20,000 (Refer page 231)	Rs.	1,030
Refund due to Mr. A	Rs.	23,690

NOTE: In order to be entitled to this refund of Rs. 23,690, Mr. A should submit the return of income together with a refund application and declaration as stated above on or before 31-3-2010.

10. Notified savings certificates were 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.

I-T NOTES

NON-RESIDENT INDIAN

(2) In the *Example* (1) on page 53, if the “investment income” is Rs. 3,20,000 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. 1,60,000.

Investment income on foreign exchange assets	..	..	..	..	..	..	..	..	Rs. 3,20,000
Tax deducted at source @ 20% as I.T. <i>plus</i> Addl. S.C. @ 3% on I.T. (i.e., 20.6%)	..	..	..	..	..	..	..	..	Rs. 65,920

In this *Example*, it is in the interest of Mr. A to opt for submission of return of income under section 139(1). It is so because on total (taxable) income Rs. 3,20,000, I.T. & Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) on I.T. at the scheduled rates would be Rs. 46,350 (Refer page 234) as against Rs. 65,920 tax deducted at source under the special provisions.

(3) Assuming that during financial year 2007-08 (assessment year 2008-09) 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. 1,20,000 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. <i>plus</i> Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% <i>plus</i> 1% on I.T. (i.e., 20.6%)	..	..	Rs. 16,480
2. In respect of interest income of Rs. 1,20,000 on bank deposits @ 30% as I.T. <i>plus</i> Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% <i>plus</i> 1% on I.T. (i.e., 30.9%)	..	..	Rs. 37,080
Aggregate of tax deducted at source	..	..	Rs. 53,560

(a) Mr. A opts that provisions of Chapter XII-A (Refer page 53) may not apply:

Investment income	..	..	..	..	..	..	..	..	Rs.	80,000
Interest on bank deposits	..	..	..	..	..	..	..	..	Rs.	1,20,000
Gross total income	..	..							Rs.	2,00,000
Less: Deduction u/s. 80L is not available as the said section is omitted from assessment year 2006-07 and onwards	..	..	..	..	..	..	..	..	Rs.	Nil
Taxable income	..	..							Rs.	2,00,000
Tax deducted at source	..	..	..	..	..	..	..	..	Rs.	53,560
Less: I.T. & Addl. S.C. on I.T. on total (taxable) income of Rs. 2,00,000 Refer page 233)									Rs.	14,420
Refund due to Mr. A	..								Rs.	39,140

In order to be entitled to this refund of Rs. 39,140, Mr. A should submit the return of income with a refund application as stated in note to *Example* (1) on page 53.

(b) If Mr. A desires that provisions of Chapter XII-A (Refer page 53) shall apply:

(i) Income other than investment income:									
Interest on bank fixed deposits	..	..	..	..	..	..	Rs. 1,20,000		
Less: Deduction u/s. 80L(1) is not available as the said section is omitted from assessment year 2006-07 and onwards	..	..	..	..	..	..	Rs. Nil		
Income other than investment income in India	..	..	..	..	..	..	Rs. 1,20,000	Rs. 1,20,000	
(ii) Investment income:									
Interest on deposits with public limited Indian companies	..	..	Rs. 80,000						
Taxable income	..	..	Rs. 2,00,000						
Tax deducted at source (Rs. 16,480 <i>plus</i> Rs. 37,080)	..	..	Rs. 53,560						
Less: I.T. & Addl. S.C. on income other than investment income Rs. 1,20,000 @ scheduled rates (Refer page 231)	..	..	Rs. 1,030						
I.T. on investment income Rs. 80,000 @ 20% u/s. 115E <i>plus</i> Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% <i>plus</i> 1% on I.T. (i.e., 20.6%)	..	..	..	..	..	..	Rs. 16,480		
Aggregate of I.T. & Addl. S.C.	..	..	..	..	..	..	Rs. 17,510	Rs. 17,510	
Refund due to Mr. A	..	..	Rs. 36,050						

In this *Example*, it is in the interest of Mr. A that he should opt that provisions of Chapter XII-A, in respect of his investment income, may not apply.

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:

- (1) exceeds Rs. 5,10,000, for assessment years 2008-09;
- (2) exceeds Rs. 5,00,000, for assessment years 2006-07 & 2007-08; and
- (3) exceeds Rs. 2,60,000¹¹, for assessment year 2005-06.

(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. 5,60,000 on 29-6-2007 (assessment year 2008-09), when the prescribed conversion rate in accordance with Rule 115A was, say, Rs. 40 per 1 US\$. **On the sale of said shares, securities transaction tax as provided in Chapter VII of the Finance (No. 2) Act, 2004, is not paid.** 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. 5,60,000 ÷ Rs. 40 (being the prescribed conversion rate in accordance with Rule 115A of 1 US \$ at the time of sale)	..	..	..	..	..	..	..	US\$	14,000
Less: Cost of acquisition of shares in US \$	..	..	..	..	..	..	..	US\$	10,000
Long-term capital gain	..	..						US\$	4,000

Long-term capital gain of US \$ 4,000 is to be reconverted into Indian rupees:

US \$ 4,000 × Rs. 40 (being the prescribed reversion rate in accordance with Rule 115A of 1 US \$ at the time of sale)	..	..	..	..	..	..	..	Rs.	1,60,000

Tax on long-term capital gain Rs. 1,60,000 @ 10% as I.T. plus Addl. S.C.(i.e., Edu. Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. (i.e., 10.3%)	..	..	..	..	..	..	..	Rs.	16,480

Notes: (1) 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 item (a) on page 51, then, the long-term capital gain on such shares will be exempt u/s. 115F [For details, refer item (c) on page 53].

(2) **If the securities transaction tax had been paid** in respect of the shares referred to in above *Example* and conditions prescribed in the 2nd para of item (c) on page 54 were complied with, the long-term capital gain of Rs. 1,60,000 will be exempt u/s. 10(38).

(viii) Scheme of Advance Rulings in transactions involving non-residents/specified residents:

[Chapter XIX-B (Sections 245N to 245V)]

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 notified¹² 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

11. For assessment year 2005-06, if the income consists of interest on Government securities/interest income from banks, then, the above figure of Rs. 2,60,000, may be increased to the extent of deduction allowable u/s. 80L(1) in order to determine at what point it is in his interest to opt under the provisions of Chapter XII-A. Deduction u/s. 80L(1) is to be restricted to Rs. 12,000. Where interest on Government securities remains unallowed after deduction of Rs. 12,000 u/s. 80L(1), an additional deduction will be allowed of an amount equal to so much of interest on Government securities as has remained unallowed upto a maximum of Rs. 3,000 [Proviso to section 80L(1)]. For instance, if the additional deduction is Rs. 2,500, then the figure of Rs. 2,72,000 [Rs. 2,60,000 plus Rs. 12,000 deduction u/s. 80L(1)] should be increased to Rs. 2,74,500.

12. 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].

(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) on page 55] [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 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. 10,000 per month without any technical or professional qualifications. The taxability of remuneration of Rs. 1,20,000 per annum will be dealt with as under:

(1) The remuneration of Rs. 1,20,000 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. 1,20,000 & Rs. 96,000, respectively. The income of Mr. A & Mrs. A, other than remuneration from the company, is Rs. 2,20,000 & Rs. 2,00,000, 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:

<i>Total income of Mr. A</i>										
Total income other than remuneration	..	..	..	..	..	..	..	..	..	Rs. 2,20,000
Remuneration from the company:										
(1) Receivable by Mr. A	..	..	..	..	..	..	..	..	Rs. 1,20,000	
(2) Receivable by Mrs. A but includible in Mr. A's assessment as provided under <i>Explanation 1</i> to section 64(1)	..	..	..	..	..	..	..	..	Rs. 96,000	Rs. 2,16,000
Gross total income of Mr. A	..									<u>Rs. 4,36,000</u>
<i>Total income of Mrs. A</i>										
Total income other than remuneration	..	..	..	..	..	..	..	..	..	Rs. 2,00,000
Remuneration received by Mrs. A from the company	..	..	..	..	..	..	..	..	Rs. 96,000	
Less: Included in the assessment of Mr. A under <i>Explanation 1</i> to section 64(1)	..	..	..	..	..	..	..	..	Rs. 96,000	Rs. Nil
Gross total income of Mrs. A	..									<u>Rs. 2,00,000</u>

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:

- the personal income of Mr. A is Rs. 1,00,000;
- the income of the trust created by Mr. B is Rs. 60,000;
- 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. 1,00,000
(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. ¹³ 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. ¹³ Nil
Gross total income of Mr. A	..	..	..	..	..	..	..	..	..	<u>Rs. 1,30,000</u>

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 a 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 a 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.

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. 1,50,000. 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. 1,50,000
Less: Exclusion from the total income [Proviso to section 64(2)]	..	..	..	..	..	..	..	Rs. 1,50,000
							Taxable income of HUF	Rs. Nil

The income of Rs. 1,50,000 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 item (f) above 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 rate¹⁴, 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 of, 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 rate¹⁴.

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 65) 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].

14. Maximum marginal rate of tax: (a) for assessment years 2008-09 is 30% I.T. + S.C. @ 10% of I.T. where the total (taxable) income exceeds Rs. 10,00,000 + Addl. S.C. @ 3% of aggregate of I.T. & S.C.; (b) for assessment years 2006-07 & 2007-08 is 30% I.T. + S.C. @ 10% of I.T. where the total (taxable) income exceeds Rs. 10,00,000 + Addl. S.C. @ 2% of aggregate of I.T. & S.C.; and (c) for assessment year 2005-06 is 30% I.T. + S.C. @ 10% of I.T. where the total (taxable) income exceeds Rs. 8,50,000 + Addl. S.C. @ 2% of aggregate of I.T. & S.C.

However, if the relevant income consists of, or includes, profits and gains of business, exceptions specified in (a) to (d) on page 59 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 and additional surcharge on I.T. & S.C., 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 and additional surcharge on I.T. & S.C., if any, of respective year.

EXAMPLE: A trust, created before 1-4-1962, partly for charitable purposes has the following income for the assessment year 2008-09:

(i)	Income from property held in trust in part for charitable purposes	Rs. 1,60,000
	<i>Less:</i> Permitted accumulation @ 15% of Rs. 1,60,000	Rs. 24,000
	Amount actually applied on objects of the trust	Rs. 16,000
	Balance liable to tax	Rs. 1,20,000
(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. 2,20,000

The tax payable will be:

(1)	I.T. on Rs. 1,20,000 relating to charitable part as if it were the total income of an AOP	Rs. 1,000	
(2)	I.T. on Rs. 1,00,000 at the maximum marginal rate of tax @ 30%	Rs. 30,000	Rs. 31,000
	<i>Add:</i> Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1%		
	on I.T. Rs. 31,000	Rs. 930	
	Total tax	Rs. 31,930	

The discretionary trust is not eligible for deduction under section 80L, as the said deduction is available only to individual and Hindu undivided family. It may be noted that the said section is omitted w.e.f. 1-4-2006, and hence deduction u/s. 80L(1) is not available in relation to assessment year 2006-07 and subsequent years.

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 rate¹⁵. 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:

- purposes of the trust;
- particulars of the trustees;
- particulars of the beneficiaries; and
- 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 59.

IV. INCOME OF CHARITABLE AND RELIGIOUS TRUSTS

[Sections 2(15)^{15a}, 2(24), 11, 12, 12A, 12AA, 13 & 115BBC]

(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)^{15a}].

15. Refer footnote No. 14 on page 59.

15a. For the notes on substituted section 2(15) by the Finance Act, 2008, refer 2.1 on page 00.

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)(ia)]. From assessment year 2007-08 and onwards, income by way of any anonymous donation is to be included in the total income and is chargeable to tax @ 30% as I.T. u/s. 115BBC [For details, refer item (viii) on page 65].

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% of its income derived from property held under trust is applied to such purposes in India [Section 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 trust¹⁶, whichever is later. However, w.e.f. 1-6-1999, such application has to be made to the Commissioner only and such trust is registered u/s. 12AA [Section 12A(1)(a)]. The provisions of section 12A(1)(a) shall not apply in relation to any application made on or after 1-6-2007 [2nd proviso to section 12A(1)(a)]. Consequently, no application u/s. 12A(1)(a) for registration of trust is required to be made on or after 1-6-2007. In respect of an application for registration of trust made on or after 1-6-2007, the provisions of sections 11 & 12 shall apply in relation to income of trust if the person in receipt of the income has made an application for registration of the trust in Form No. 10A to the Commissioner and such trust is registered u/s. 12AA [Section 12A(1)(aa)]. Where an application has been made on or after 1-6-2007, the provisions of sections 11 & 12 shall apply in relation to the income of such trust from the assessment year immediately following the financial year in which such application is made [Section 12A(2)].

Section 12AA prescribes the procedure for registration of trust where the application for registration is received by the Commissioner u/s. 12A(1)(a)/(aa). 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(1)(a)/(aa). An appeal can be filed to the Appellate Tribunal against order for refusal of registration passed u/s. 12AA [Section 253(1)(c)]. W.e.f. 1-10-2004, where a trust has been granted registration u/s. 12AA(1)(b) and subsequently the Commissioner is satisfied that the activities of such trust are not genuine or are not carried out in accordance with the objects of the trust, he may, after affording reasonable opportunity of hearing to it, cancel the registration by passing an order in writing [Section 12AA(3)]; and

(3) where the total income of the trust as computed under the Income-tax Act before exemption under sections 11 and 12 *exceeds the maximum amount which is not chargeable to income-tax in any previous year*¹⁷, 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 to be 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% 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

16. 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].

17. In relation to assessment year 2005-06 and earlier years, for the words in italics “exceeds the maximum amount which is not chargeable to income-tax in any previous year”, read “exceeds Rs. 50,000/- in any previous year”.

(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 years¹⁸, in respect of income accumulated or set apart on or after 1-4-2001;

(b) 10 years¹⁸, 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 64 [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)].

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)].

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 60. 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 facing page] 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 such a case, provisions of section 11(1) will not apply [Section 12(2)]. Also refer sub-item (7) of item (vi) on facing page.

(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 217] in respect of which accounts of income and expenditure have

18. 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)].

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) 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 facing page [Section 13(6)].

(8) From assessment year 2007-08 and onwards, income by way of any anonymous donation referred to in section 115BBC [For details, refer item (viii) on page 65] [Section 13(7)].

(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)]. 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 [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 17C¹⁹) [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 shares in a public sector company & shares prescribed as a form or mode of investment u/s. 11(5)(xii) after 30-11-1983 [Section 13(1)(d)(iii)].

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 corpus of the trust as on the 1-6-1973;

(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, 1983²⁰;

(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;

19. 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;
- (v) investment made by a recognised stock exchange in equity share capital of a company specified in (A) to (C) of clause (v) of rule 17C;
- (vi) w.e.f. 1-3-2007, investment by way of acquiring equity shares of an incubatee by an incubator.

20. 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 lose exemption u/s. 11 [Section 13(5)].

(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) Certain anonymous donations received by trusts, etc. are not eligible for exemption

u/s. 10(23C) & 11 and chargeable to tax at flat rate of 30%:

[Sections 13(7), 10(23C) & 115BBC]

From assessment year 2007-08 and onwards, section 115BBC provides that where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in section 10(23C)(iiiad)/(vi) or any hospital or other institution referred to in section 10(23C)(iiiaa)/(via) or any fund or institution referred in section 10(23C)(iv) or any trust or institution referred to in section 10(23C)(v) or any trust or institution referred to in section 11, includes income by way of any anonymous donation, the income-tax payable shall be the aggregate of: (1) the amount of income-tax calculated on income by way of any anonymous donation, at the rate of 30%; and (2) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of the income referred to in (1) [Section 115BBC(1)].

Provisions of section 115BBC(1) shall not apply to any anonymous donation received by any trust or institution created or established: (1) wholly for religious purposes; and (2) wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution [Section 115BBC(2)].

‘Anonymous donation’ is defined to mean any voluntary contribution referred to in section 2(24)(iia), where a person receiving such contribution does not maintain a record of the identity, indicating the name and address of the person making such contribution and such other particulars as may be prescribed [Section 115BBC(3)].

Income by way of anonymous donation which is taxable u/s. 115BBC shall not be exempt u/s. 10(23C)/u/s. 11 [vide 13th proviso to section 10(23C)/section 13(7)].

(ix) 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. 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];
 3. Where the total income of the trust as computed under the Income-tax Act before allowing exemption u/s. 11 or 12 exceeds specified monetary limit [refer sub-item (3) of item (i) on page 61], the accounts are to be audited by an accountant as defined in the *Explanation* to section 288(2) [Section 12A(b)].

(x) 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 prescribe 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 rate²¹ 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.

21. Refer footnote No. 14 on page 59.

I-T NOTES

HEADS OF INCOME

Further, in a case (b) on page 65, 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 relating 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 (8) of item (ii) on page 128].

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.

(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) above.

Where any deduction admissible under sections 80G, 80GGA, 80GGC, 80HH, 80HHA, 80HHB, 80HHC, 80HHD, 80-I, 80-IA, 80-IB, 80-IC, 80-ID, 80-IE, 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 (AO) 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].

W.e.f. 1-4-2007 (assessment year 2007-08 and onwards), where the AO is not satisfied with the correctness of the claim of the assessee in respect of expenditure incurred in relation to such income which does not form part of the total income, he shall determine the quantum of such expenditure in accordance with such method as may be prescribed²² [Section 14A(2)]. Section 14A(3) provides that the AO shall follow the above procedure as laid down in sub-section (2), even if the assessee claims that the expenditure against such exempt income is 'nil'.

22. Refer rule 8D inserted w.e.f. 24-3-2008 by the Income-tax (Fifth Amendment) Rules, 2008: 299 ITR (St.) 88.

SALARIES**[For assessment year 2005-06 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 employee¹.

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 and “salaries” payable for rest period or leave period 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 48.

(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 Rules² (for computation of relief, refer page 72).

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) 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 him³ [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)];

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 91).

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 75.

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%’.

SALARIES BONUS/EXEMPT ALLOWANCES

(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)]; and

(ix) Contribution made by the Central Government or any other employer in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD [Refer item (iii) on page 213] [Sec. 17(1)(viii)].

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)(iia) and 2(24)(iib)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 pursuits 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)(iia). Similarly, allowances like dearness allowance, city compensatory allowance, etc. will be covered u/s. 2(24)(iib) [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:—

<i>Sl. No.</i>	<i>Nature of allowance</i>	<i>Place at which allowance is exempt</i>	<i>Extent to which allowance is exempt</i>
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 II. Siachen area of Jammu & Kashmir 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. 800/- per month. Rs. 7,000/- per month. 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] II. Installations in the continental shelf of India and the exclusive economic zone of India III. [For places refer ⁷] IV. [For places refer ⁷] V. Jog falls in Shimoga District in Karnataka VI. [For places refer ⁷]	Rs. 1,300/- per month. Rs. 1,100/- per month. Rs. 1,050/- per month. Rs. 750/- per month. Rs. 300/- per month. 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.
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.

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.]:

<i>Sl. No.</i>	<i>Nature of allowance</i>	<i>Place at which allowance is exempt</i>	<i>Extent to which allowance is exempt</i>
	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 ⁹	Whole of India	Rs. 3,900/- per month.
	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.
	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.
	Underground allowance granted to an employee who is working in uncongenial, unnatural climate in <i>underground mines</i> ^{10/10a}	Whole of India ¹⁰	Rs. 800/- per month. ¹⁰
	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 ¹¹	(a) For altitude of 9,000 to 15,000 feet ¹¹ (b) For altitude above 15,000 feet ¹¹	Rs. 1,060/- per month. ¹¹ Rs. 1,600/- per month. ¹¹
	Any special allowance granted to the members of the armed forces in the nature of special compensatory highly active field area allowance ¹¹	Whole of India ¹¹	Rs. 4,200/- per month. ¹¹
	Any special allowance granted to the members of the armed forces in the nature of island (duty) allowance ¹²	Andaman & Nicobar and Lakshadweep group of islands ¹²	Rs. 3,250/- per month. ¹²

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): 182 ITR (St.) 63] is fully exempt. The deposit itself is exempt from wealth-tax without any monetary limit.

9. The words and figure, "for a period of more than 30 days", omitted w.e.f. 1-4-2006 vide Income-tax (Twenty-second Amendment) Rules, 2005 [277 ITR (St.) 53].

10. Serial number 12 inserted w.e.f. 24-4-2000 vide Income-tax (Fourth Amendment) Rules, 2000 [243 ITR (St.) 56].

10a. Upto 6-11-2007, for the words in italics 'underground mines' read 'underground coal mines' vide Income-tax (Thirteenth Amendment) Rules, 2007 [295 ITR (St.) 1].

11. Serial number 13 & 14 inserted w.e.f. 1-5-1999 vide Income-tax (Twenty-second Amendment) Rules, 2000 [246 ITR (St.) 66].

12. Serial number 15 inserted w.e.f. 29-2-2000 vide Income-tax (Twenty-first Amendment) Rules, 2000 [246 ITR (St.) 65].

[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. 3,50,000¹³, 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. 3,50,000¹³

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, 2008. 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 ¹⁴ =	Rs. 300
2. Multiply each day's wages by 15	Rs. 300 × 15 ¹⁵ =	Rs. 4,500
3. Multiply 15 days' wages by 41	Rs. 4,500 × 41 ¹⁶ =	<u>Rs. 1,84,500</u>

For the assessment year 2008-09, 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".

[Applicable to employees who are not covered under item (2) above] **Gratuity received on retirement, incapacitation, death of the employee or termination of his employment¹⁷ 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. 3,50,000¹⁸).

"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~~

13. 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.

14. As per *Explanation* to section 4(2) of the Payment of Gratuity Act, 1972.

15. This represents fifteen days' wages.

16. This represents the number of completed years of continuous service.

17. 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].

18. 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].

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. 3,50,000¹⁹. 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. 3,50,000¹⁹ 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 31-3-2008, 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 1-5-2007 to 29-2-2008).

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 limit 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 1-4-2007 to 31-3-2008 and the income under the head "Salaries" is to be computed for the assessment year 2008-09 as under:

Salary from 1-4-2007 to 31-3-2008 (Rs. 18,000×12)	..	..	..	..	..	..	..	Rs. 2,16,000
Gratuity for inclusion in the salary income as computed above	..	..	..	..	..	..	..	Rs. 18,000
Base for deduction u/s. 16(i) ²⁰ & 16 (iii)	..	..						Rs. 2,34,000
Less: (1) Standard deduction under section 16(i) ²⁰	..	..	..	..	..	..	Rs. Nil ²⁰	
(2) Deduction under section 16(iii):								
Professional tax deducted (say)	..	..	..	..	..	..	Rs. 2,000	Rs. 2,000
Taxable salary for assessment year 2008-09	..							Rs. 2,32,000

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 pension²¹ as defined in the *Explanation* to section 57(ia), 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/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 "additional salary") or family 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/additional family pension of the previous year.

(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/additional family pension.

(v) Ascertain the previous years to which the additional salary/additional family pension relates and add the respective amount of additional salary/additional family pension in respective preceding previous years.

19. Refer footnote No. 18 on page 71.

20. Standard deduction u/s. 16(i) is not available as the said section is omitted w.e.f. 1-4-2006 (assessment year 2006-07 and onwards).

21. "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(ia)].

(vi) Find out the tax on total income as increased by the relevant additional salary/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/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/additional family pension*.

(x) The relief under section 89 is the difference of (iv) & (ix).

EXAMPLE: For the financial year ending on 31-3-2008, the total (taxable) income of Mr. A an employee aged 60 years is Rs. 2,10,000 (after deduction u/s. 80C for contribution to provident fund Rs. 18,000). The said total (taxable) income of Rs. 2,10,000 is inclusive of arrears of salary for the financial years ending on 31-3-2005, 31-3-2006 and 31-3-2007 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)/80C is Rs. 44,000, Rs. 46,000 and Rs. 97,500. Relief u/s. 89 is to be worked out as under:

Total (taxable) income (excluding salary received in arrears)	..	..	..	..	..	..	Rs. 1,80,000
Add: Salary received in arrears for year ending 31-3-2005, 31-3-2006 & 31-3-2007	..	..	..	..	..	..	Rs. 30,000
Total (taxable) income for the financial year ending on 31-3-2008	..	..	..	..	..	..	Rs. 2,10,000

I.T. on Rs. 2,10,000 total (taxable) income is Rs. 16,000 *plus* Addl. S.C. Rs. 480 @ 3% of I.T. Rs. 16,480 (i)

Less: I.T. on Rs. 1,80,000 total (taxable) income is Rs. 10,000 *plus* Addl. S.C. Rs. 300 @ 3% of I.T. Rs. 10,300 (ii)

Tax on additional salary (i.e., salary received in arrears) Rs. 6,180 (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
31-3-2005	2005-06 (v)	Rs. 44,000	Rs. 7,500	Rs. 51,500	‡Rs. NIL (vi)	‡Rs. NIL (vii)	Rs. NIL (viii)
31-3-2006	2006-07 (v)	Rs. 46,000	Rs. 10,000	Rs. 56,000	‡Rs. NIL (vi)	‡Rs. NIL (vii)	Rs. NIL (viii)
31-3-2007	2007-08 (v)	Rs. 97,500	Rs. 12,500	Rs. 1,10,000	*Rs. 1,020 (vi)	*Rs. NIL (vii)	Rs. 1,020 (viii)
					<u>Rs. 1,020</u>	<u>Rs. NIL</u>	<u>Rs. 1,020 (ix)</u>

Less: Aggregate tax on additional salary as per column 8 Rs. 1,020 (ix)

The relief under section 89 in respect of employee's salary received in arrears or in advance is Rs. 5,160 (x)

‡I.T. on Rs. 51,500 is Rs. 150 and on Rs. 44,000 is Rs. Nil, respectively, less Rs. 150/Rs. Nil [being rebate u/s. 88D(a) @ 100% of the I.T. payable as the total (taxable) income does not exceed Rs. 1,00,000].

‡I.T. on Rs. 56,000 is Rs. Nil and on Rs. 46,000 is Rs. Nil, respectively.

*I.T. & Addl. S.C. on I.T. on Rs. 1,10,000 is Rs. 1,020 and on Rs. 97,500 is Rs. Nil, respectively.

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 2008-09. 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 facing page].

(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.

(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 is to be substituted by the word “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.

Section 10(10C) provides that any amount received or receivable (i.e., in instalment) 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; or
11. an institution, having importance throughout India or in any State or States, as may be notified by the Central Government²²,

on his voluntary retirement 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 2BA²³ 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)].

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,

22. Notified institution is: (a) International Crops Research Institute for the Semi-Arid Tropics [Notification No. S.O. 645(E), dt. 19-6-2002: 256 ITR (St.) 5]; & (b) Action for Food Production (AFPRO) [Notification No. S.O. 996, dt. 26-3-2004: 268 ITR (St.) 225].

23. For Board's clarification on Rule 2BA, refer Circular No. 640, dt. 26-11-1992 [199 ITR (St.) 2].

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 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 upto assessment year 2005-06, from income-tax payable; and deduction u/s. 80C (from assessment year 2006-07 and onwards), from gross total income. The contribution that can be made by the employer is upto 27% 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) in relation to assessment year 2005-06 and earlier years. 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].

Cash equivalent of leave salary received only *at the time of retirement*²⁴ 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*²⁴ 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 1-4-1998²⁵; (b) Rs. 2,40,000, where the employee retires after 1-7-1997 but before 2-4-1998²⁶.

(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)].

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, 2008. His monthly salary at the time of retirement was Rs. 24,000. He was drawing this sum from March 2007 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 2008-09. Thus, the total gross salary would be Rs. 2,88,000 [Rs. 2,40,000

24. Section 17(1)(va) provides that the encashment of earned leave while in service will be treated as salary.

25. 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].

26. 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].

(Rs. 24,000 salary per month × 10 months) *plus* Rs. 48,000 taxable leave salary].

Mr. B, an employee of Messrs B & Co. Limited, retired on 29-2-2008, 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.

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 2008-09.

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.

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 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, 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 facing page [Sec. 17(2)(iii)(c)].

For assessment year 2001-02 to 2007-08, 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 perquisite²⁷, if such Plan or Scheme is in accordance with the guidelines issued by the Central Government²⁸ [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 148].

Consequent to insertion of clause (d) in section 115WB(1), w.e.f. 1-4-2008, proviso to section 17(2)(iii) is omitted from the said date (i.e., assessment year 2008-09 and onwards). The value of such perquisite will be chargeable to tax in the hands of employer as fringe benefits [For details, refer Serial No. 3 of the Table on page 199].

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)(iiiia) [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 of any specified security allotted or transferred during 1-4-1999 to 31-3-2000, directly or indirectly, by any person free of cost, 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)(iii)]. 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 148.

(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) the value of any other fringe benefit or amenity as prescribed in the sub-rule (7) of rule 3 [Refer item (ix) on page 83]. However, from assessment year 2006-07 and onwards, the value of fringe benefits chargeable to tax under Chapter XII-H (Sections 115W to 115 WL) in the hands of the employer, will be excluded from the value of such fringe benefits includible in the employee's salary as perquisite [Sec. 17(2)(vi)].

It may be noted that, in relation to assessment year 2006-07 and subsequent years, the value of perquisite (i.e., fringe benefit or amenity) specified in rule 3(2) [Refer item (ii) on page 80]; rule 3(6) [Refer item (viii) on page 82]; rule 3(7)(ii) [Refer item (ix)(d) on page 84]; Rule 3(7)(iii) [Refer item (ix)(e) on page 84]; rule 3(7)(iv) [Refer item (ix)(f) on page 84]; rule 3(7)(v) [Refer item (ix)(g) on page 84]; rule 3(7)(vi) [Refer item (ix)(h) on page 85]; and rule 3(8) [Refer item (x) on page 85] will be excluded from the value of fringe benefits includible in the employee's salary as perquisite.

W.e.f. 1-4-2008 (assessment year 2008-09 and onwards), in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H, the value of perquisite (i.e., fringe benefit or amenity) specified in new rule 3(2) [Refer item (ii) on page 80]; new rule 3(6) [Refer item (viii) on page 82]; new rule 3(7)(ii) to 3(7)(vi) [Refer item (ix)(d) to (ix)(h) on pp. 84-85, respectively] and new rule 3(7)(ix) [Refer item (x) on page 85] will be included in employee's salary as perquisite.

1. VALUATION OF PERQUISITES

ASSESSMENT YEAR 2005-06 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 household²⁹ by reason of his employment is to be determined in accordance with the *Explanations* 1 to 4 to section 17(2)(ii) and as prescribed in rule 3 of the Income-tax Rules, 1962.

The valuation of perquisites is to be determined as explained hereafter.

27. 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].

28. 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.

29. "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].

(i) **Value of perquisite in respect of residential accommodation:**

[Refer Rule 3(1) of the Income-tax Rules, 1962]

From assessment year 2006-07 and onwards³⁰:

The value of residential accommodation provided by the employer during the previous year relevant to assessment year 2006-07³⁰ and subsequent years is to be determined on the basis as per the substituted Table I³⁰ below:—

TABLE-I

Sl. No.	Circumstances	Where the accommodation is unfurnished	Where the accommodation is furnished
(1)	(2)	(3)	(4)
(1)	Where the accommodation³¹ is provided by the Central Government or any State Government to their employees either holding office or post in connection with the affairs of the Union or of such State or serving with any body or undertaking under the control of such Government on deputation	Licence fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such 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 accommodation³¹ is provided by any other employer and— (a) where the accommodation³¹ is owned by the employer, or (b) where the accommodation³¹ is taken on lease or rent by the employer	(i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; (ii) 10% of salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census; (iii) 7.5% of salary in other areas, 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 Actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower, 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. 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.
(3)	Where the accommodation³¹ is provided by the employer specified in Serial number (1) or (2) in a hotel (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, whichever 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 shall apply to any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site which,—

- being of a temporary nature and having plinth area not exceeding 800 square feet, is located not less than eight kilometers away from the local limits of any municipality or a cantonment board; or
- is located in a remote area³²:

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.

30. In relation to assessment year 2005-06, the value of perquisite in respect of residential accommodation is to be determined vide the than Table 1 read with *Explanations 1 to 4* to section 17(2)(ii).

31. "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].

32. "remote area" means an area that is located at least 40 kilometres away from a town having population not exceeding 20,000 based on latest published all-India census [Vide clause (v) of the *Explanation* to Rule 3].

“Salary” defined for the purposes of Rule 3(1):

[Refer clause (vi) of the *Explanation* to Rule 3/*Explanation 3* to section 17(2)(ii)]

‘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 section 17(2) 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.

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].

EXAMPLE: Mr. Joshi is an employee of M/s. A. & Co. Ltd. at Mumbai. During the financial year ending on 31-3-2009, 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:

<i>If the accommodation is owned by M/s. A. & Co. Ltd. at Mumbai:</i>	<i>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:</i>
15%* of Rs. 1,52,000 (Salary, Bonus & Entertainment allowance)	1. Actual amount of lease rental paid by M/s. A & Co. Ltd.
Rs. 22,800	Rs. 15,000
Add: 10% of the cost of furniture and household appliances Rs. 48,000	2. 15%* of Rs. 1,52,000 (Salary, Bonus & Entertainment allowance)
Rs. 4,800	Rs. 22,800
Rs. 27,600	Lower of 1 & 2 above
Less: Rent for accommodation paid by Mr. Joshi to M/s. A. & Co. Ltd. Rs. 12,000	Add: 10% of the cost of furniture and household appliances Rs. 48,000 Rs. 4,800
Value of perquisite	Rs. 19,800
Rs. 15,600	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 (1) population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census, then instead of 15% salary, 10% of salary is to be adopted; (2) 7.5% of salary, in any other areas [Vide *Explanation 4* to section 17(2)(ii)]/Sl. No. 2(a) of the Table on facing page].

(ii) **Value of perquisite in respect of use of motor car:**

[Refer Rule 3(2) of the Income-tax Rules, 1962]

Sub-rule (2) of rule 3 is omitted w.e.f. 1-4-2005 (assessment year 2006-07 & onwards) by the Income-tax (Seventh Amendment) Rules, 2005 and hence the value of perquisite in respect of use of motor car mentioned below will not be taxed in the hands of the employee. It will be taxed in the hands of employer under Chapter XII-H as income-tax on fringe benefits [For details, refer pp. 198-203].

New sub-rule (2) inserted in rule 3, w.e.f. 1-4-2008 (assessment year 2008-09 & onwards) by the Income-tax (Fourteenth Amendment) Rules, 2007, provides that the value of perquisite in respect of use of motor car mentioned below will be taxed in the hands of the employee of the employer who is not liable to pay fringe benefit tax under Chapter XII-H.

(A) For assessment year 2005-06/from assessment year 2008-09 & onwards (in the case employee of the employer who is not liable to pay fringe benefit tax under Chapter XII-H), 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 81] are maintained by the employer	No value: Provided that the documents specified in clause (B) of this sub-rule [Refer page 81] are maintained by the employer.
	(b) is used exclusively for the private or personal purposes of the employee or any member of his household ³³ 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 ³³ ; and		
	(i) the expenses on maintenance and running are met or reimbursed by the employer;	Rs. 1200 (<i>plus</i> Rs. 600, if chauffeur is also provided to run the motor car)	Rs. 1600 (<i>plus</i> 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 (<i>plus</i> Rs. 600, if chauffeur is also provided by the employer to run the motor car)	Rs. 600 (<i>plus</i> 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 81] are maintained by the employer	No value: Provided that the documents specified in clause (B) of this sub-rule [Refer page 81] 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 ³³	Subject to the provisions contained in clause (B) of this sub-rule [Refer page 81], the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above	Subject to the provisions contained in clause (B) of this sub-rule [Refer page 81], the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (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 81] 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 81], the actual amount of expenditure incurred by the employer as reduced by an amount of Rs. 600:	Not applicable.

33. "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 Sl. No. (1)(c)(i) of Table-II [Refer page 80] 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 Sl. No. (1)(b) of Table-II [Refer page 80] 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 Sl. No. (2)(ii) or (3)(ii) of Table-II [Refer page 80], 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.

Explanation.— For the purposes of this sub-rule, the normal wear and tear of a motor car shall be taken at 10% per annum of the actual cost of the motor car or cars.

EXAMPLE (i): From 1-4-2007 to 31-3-2008, employer Mr. A, who is not liable to pay fringe benefit tax under Chapter XII-H, 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 Mr. A. The employee is not in receipt of any other benefits or perquisites from employer Mr. A other than use of a motor car. The salary of an employee is Rs. 12,000 per month for the year ending 31-3-2008. Salary inclusive of perquisite will be as under:

1. Salary Rs. 12,000 per month for the year ending 31-3-2008	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
Gross salary subject to deductions u/s. 16(iii) (for profession tax paid)	Rs. *21,600
	<u>Rs. 1,65,600</u>

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 Mr. A. 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 31-3-2008. Salary inclusive of perquisite will be as under:

1. Salary @ Rs. 10,000 p.m. for the year ending 31-3-2008	Rs. 1,20,000
2. Perquisite in respect of motor car:	
Running & maintenance charges reimbursed by the employer	Rs. 36,000
Less: (a) Amount specified in Sl. No. (1)(c)(i) of Table II:	
Rs. 1,200 p.m. × 12 month	<u>Rs. 14,400</u>

OR

(b) Actual expenses on running & maintenance for official purposes incurred by the employee [vide clause (B) of Rule 3(2)]	<u>Rs. 17,500</u>

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(iii) (for profession tax paid)		<u>Rs. 1,38,500</u>

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)].

* The perquisite in respect of use of motor car as computed in Example (i) & (ii) above, is not to be included as perquisite of the employee in relation to assessment year 2006-07 and subsequent years, if the employer is liable to pay fringe benefit tax under Chapter XII-H.

(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 household³⁴ 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.

(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 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.

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 household³⁴ 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;

(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 household³⁴ 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.

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 69.

(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]

Sub-rule (6) of rule 3 is omitted w.e.f. 1-4-2005 (assessment year 2006-07 & onwards) by the Income-tax (Seventh Amendment) Rules, 2005 and hence the value of perquisite mentioned hereunder will not be taxed in the hands of the employee. It will be taxed in the hands of employer who is liable to pay fringe benefit tax under Chapter XII-H [For details, refer pp. 198-203].

New sub-rule (6) inserted in rule 3, w.e.f. 1-4-2008 (assessment year 2008-09 and onwards) by the Income-tax (Fourteenth Amendment) Rules, 2007, provides that the value of perquisite mentioned hereunder will be taxed in the hands of the employee of the employer who is not liable to pay fringe benefit tax under Chapter XII-H.

34. “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].

Where any undertaking/an employer 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 household³⁵, in any conveyance owned, leased or made available by any other arrangement by the undertaking/such employer for the purpose of transport of passengers or goods, the value at which such benefit or amenity is offered by such undertaking/employer 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 an airline or the Railways, the provisions of Rule 3(6) shall not apply [Proviso to Rule 3(6)].

(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 [excluding the fringe benefits chargeable to tax in the hands of the employer under Chapter XII-H (Refer pp. 198-203)] as may be prescribed will be treated as perquisite. Sub-rule (7) of Rule 3 of the Income-tax Rules has prescribed the following fringe benefits or amenities for the purpose of section 17(2)(vi):

ASSESSMENT YEAR 2005-06 AND ONWARDS:

(a) IN RESPECT OF INTEREST-FREE OR CONCESSIONAL LOAN [Rule 3(7)(i)]: 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 household³⁵ 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 (Refer page 94), 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 balance³⁶ as reduced by the interest, if any, actually paid by employee or any such member of his household³⁵.

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. 6,00,000 on 1-12-2007 to its employee Shri A for purchase of house. Shri A has to repay this loan in 10 monthly equal instalments of Rs. 60,000 starting from 1-1-2008. The value of perquisite in respect of loan for house for assessment year 2008-09 is as under:

Amount of instalment paid	Instalment paid on	Maximum outstanding monthly balance	Interest @ 10.25%† p.a. From to	Amount of interest
Rs. Nil	.. N.A.	Rs. 6,00,000 on 31-12-07	1-12-07 to 31-12-07	Rs. 5,125.00
Rs. 60,000	1-1-08	Rs. 5,40,000 on 31-01-08	1-01-08 to 31-01-08	Rs. 4,612.50
Rs. 60,000	1-2-08	Rs. 4,80,000 on 29-02-08	1-02-08 to 29-02-08	Rs. 4,100.00
Rs. 60,000	1-3-08	Rs. 4,20,000 on 31-03-08	1-03-08 to 31-03-08	Rs. 3,587.50
Value of perquisite in respect of interest-free loan for house for assessment year 2008-09				Rs. 17,425.00

† For rate of interest specified by the State Bank of India, refer page 94.

(b) 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 household³⁵ 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.

(c) 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 household³⁵ 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).

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.

35. "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].

36. "maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of the each month [Vide clause (vii) of the *Explanation* to Rule 3].

FOR ASSESSMENT YEAR 2005-06/FROM ASSESSMENT YEAR 2008-09 AND ONWARDS:

Items (ii) to (vi) of sub-rule (7) of rule 3 are omitted w.e.f 1-4-2005 (assessment years 2006-07 & onwards) by the Income-tax (Seventh Amendment) Rules, 2005 and hence the value of perquisites mentioned in the said items [Refer (d) to (h)] hereafter will not be taxed in the hands of employee as it is not to be included as perquisite in the employee's salary. It will be taxed in the hands of employer who is liable to pay fringe benefit tax under Chapter XII-H [For details, refer pp. 198-203].

New Items (ii) to (vi) inserted in sub-rule (7) of rule 3, w.e.f. 1-4-2008 (assessment year 2008-09 and onwards) by the Income-tax (Fourteenth Amendment) Rules, 2007, provides that the value of perquisites mentioned in the said items [Refer (d) to (h)] hereafter will be taxed in the hands of the employee of the employer who is not liable to pay fringe benefit tax under Chapter XII-H.

(d) IN RESPECT OF TRAVELLING, TOURING, ETC. [RULE 3(7)(ii)]: For assessment year 2005-06/ from assessment year 2008-09 and onwards (in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H), the value of travelling, touring, accommodation³⁷ 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 household³⁸, not being concession or assistance referred to in Rule 2B [refer item (c) on page 89], will be the sum equal to the amount of the expenditure incurred by such 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 household³⁸ 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.

(e) IN RESPECT OF FREE FOOD AND NON-ALCOHOLIC BEVERAGES³⁹ [RULE 3(7)(iii)]: For assessment year 2005-06/ from assessment year 2008-09 and onwards (in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H), the value of free food and non-alcoholic beverages³⁹ provided by the employer to an employee will be the amount of expenditure incurred by such 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 food and non-alcoholic beverages³⁹ are provided by such employer during working hours⁴⁰ 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 working hours⁴⁰, and (2) free food and non-alcoholic beverages³⁹ during working hours provided in a remote area⁴¹ or an offshore installation.

(f) IN RESPECT OF ANY GIFT, VOUCHER OR TOKEN [RULE 3(7)(iv)]: For assessment year 2005-06/ from assessment year 2008-09 and onwards (in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H), 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 household³⁸ 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 perquisite will be 'nil'.

(g) IN RESPECT OF CREDIT CARD [RULE 3(7)(v)]: For assessment year 2005-06/ from assessment year 2008-09 and onwards (in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H), the amount of expenses including membership fees and annual fees incurred by the employee or any member of his household³⁸, which is charged to a credit card (including any add-on-card), provided by the employer or otherwise, paid for or reimbursed by such employer will be taken to be value of perquisite chargeable to tax.

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.

37. "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].

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].

39. upto 30-9-2004, for the words "food and non-alcoholic beverages", read "meals".

40. upto 30-9-2004, for the words "working hours", read "office hours".

41. "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].

(h) IN RESPECT OF CLUB FEES/EXPENDITURE [RULE 3(7)(vi)]: For assessment year 2005-06/from assessment year 2008-09 and onwards (in the case of an employee of an employer who is not liable to pay fringe benefit tax under Chapter XII-H), 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 household⁴², the actual amount of expenditure paid or reimbursed by such 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.

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.

(x) Value of any other benefit or amenity, service, right or privilege:

[Refer Rule 3(8)/3(7)(ix) of the Income-tax Rules, 1962]

Assessment year 2005-06/from assessment year 2008-09 and onwards:

Sub-rule (8) of rule 3 is omitted w.e.f. 1-4-2005 (assessment year 2006-07 & onwards) by the Income-tax (Seventh Amendment) Rules, 2005 and hence the value of perquisite mentioned below will not be taxed in the hands of the employee.

Item (ix) inserted in sub-rule (7) of rule 3, w.e.f. 1-4-2008 (assessment year 2008-09 and onwards), provides that the value of perquisites mentioned below will be taxed in the hands of the employee irrespective of the fact that whether such employer is liable to pay fringe benefit tax under Chapter XII-H or not.

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 arm's 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 76, unless the benefit or amenity is of a obligatory nature referred to in item (v) on page 77.

Note: For valuation of reimbursement of medical expenses/medical facilities by the employer, refer item 3(i) on page 88.

**2. 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)/(3), 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 perquisite 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. 76-77). 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

⁴². "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].

the employer will not be deemed to be income of the employee under proviso to section 198. In respect of deduction made u/s. 192 (1A), 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) [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)⁴³ [Section 200(2)/(3)]. 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 31-3-2008, income under the head “Salaries” of Mr. A, who is aged 45 years, is Rs. 2,30,000 which includes Rs. 30,000 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:

Salary of Mr. A (aged 45 years) from M/s. X & Co.	Rs. 2,00,000
Add: Non-monetary perquisites provided by M/s. X & Co.	Rs. 30,000
	Rs. 2,30,000
Less: Standard deduction u/s. 16(i) is not available as the said section is omitted from assessment year 2006-07 and onwards	Rs. Nil
	Rs. 2,30,000
Less: Deduction u/s. 80C:	
For contribution to provident fund and life insurance premia paid u/s. 80C @ 100% of Rs. 30,000	Rs. 30,000
Income chargeable under the head “Salaries”	Rs. 2,00,000
Income-tax on Rs. 2,00,000 (Refer page 233)	Rs. 14,000
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 14,000	Rs. 420
Total of income-tax and additional surcharge on income-tax	Rs. 14,420
Average rate of income tax [Rs. 14,000 (I.T.) ÷ Rs. 2,00,000 (income chargeable under the head “Salaries”)] u/s. 192(1B)	0.07
Income-tax payable by M/s. X & Co. on non-monetary perquisites Rs. 30,000 i.e., Rs. 30,000 × 0.07 average rate of I.T.	Rs. 2,100
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 2,100	Rs. 63
Tax payable by M/s. X & Co. u/s. 192(1A)	Rs. 2,163
Tax to be deducted by M/s. X & Co. from Mr. A's salary (Rs. 14,420 less Rs. 2,163) u/s. 192(1)	Rs. 12,257

Note: Mr. A will be allowed credit of tax at source Rs. 14,420 [Rs. 12,257 being tax deducted at source from salary by M/s. X & Co. (vide section 199(1)) plus Rs. 2,163 being tax paid (borne) by M/s. X & Co. (vide section 199(2))].

3. ASSESSMENT YEAR 2005-06 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 family⁴⁴ in any hospital⁴⁵ 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 family⁴⁴—

(a) in any hospital⁴⁵ maintained by the Government or any local authority or an approved hospital⁴⁵ under Central Health Scheme or a similar scheme of any State Government,

(b) in respect of the prescribed diseases or ailments⁴⁶, in any hospital⁴⁵ 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;

43. 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)].

44. “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.

45. “hospital” includes a dispensary or a clinic or a nursing home.

46. For the prescribed diseases or ailments, in any approved hospital, refer rule 3A of the Income-tax Rules.

(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^{46a} under scheme approved by the Central Government (or, in relation to assessment year 2007-08 and subsequent years, also under any scheme of the Insurance Regulatory and Development Authority established u/s. 3(1) of the Insurance Regulatory and Development Authority Act, 1999) for the purposes of sections 36(1)(ib)/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^{46a} 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^{46a} of such employee, outside India.

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”⁴⁷ 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.

46a. “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.

47. 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. 1,44,000 per annum. He pays rent of Rs. 7,800 per month (Rs. 93,600 per annum). He is in receipt of house rent allowance from employer at Rs. 7,200 per month (Rs. 86,400 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)			1,44,000	Annual salary (exclusive of benefits and perquisites)			1,44,000
House rent allowance received ..		86,400		House rent allowance received ..		86,400	
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	86,400			(a) House rent allowance received	86,400		
	Rs.				Rs.		
(b) Actual rent paid 93,600				(b) Actual rent paid 93,600			
Less: 1/10th of salary ..	14,400	79,200		Less: 1/10th of salary ..	14,400	79,200	
(c) One-half of salary ..	72,000			(c) Two-fifths of salary ..	57,600		
Least of (a), (b) & (c) is exempt	72,000	14,400		Least of (a), (b) & (c) is exempt	57,600	28,800	
Salary income subject to deduction ⁴⁸ ..		1,58,400		Salary income subject to deduction ⁴⁸ ..		1,72,800	

- (ii): Mr. A who is employed by M/s. B & Co. Ltd. is in receipt of salary (exclusive of benefits and perquisites) of Rs. 1,18,000 per annum. He pays rent of Rs. 3,000 per month (Rs. 36,000 per annum). He is in receipt of house rent allowance from employer at Rs. 2,000 per month (Rs. 24,000 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)			1,18,000	Annual salary (exclusive of benefits and perquisites)			1,18,000
House rent allowance received ..		24,000		House rent allowance received ..		24,000	
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	24,000			(a) House rent allowance received	24,000		
	Rs.				Rs.		
(b) Actual rent paid 36,000				(b) Actual rent paid 36,000			
Less: 1/10th of salary ..	11,800	24,200		Less: 1/10th of salary ..	11,800	24,200	
(c) One-half of salary ..	59,000			(c) Two-fifths of salary ..	47,200		
Least of (a), (b) & (c) is exempt	24,000	NIL		Least of (a), (b) & (c) is exempt	24,000	NIL	
Salary income subject to deduction ⁴⁸ ..		1,18,000		Salary income subject to deduction ⁴⁸ ..		1,18,000	

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 217).

48. Under sections 16(i), (upto assessment year 2005-06), 16(iii), 80C (from assessment year 2006-07 and onwards), 80CCC, 80CCD, 80D, 80DD & 80E.

(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).

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. 68-70.

(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 family⁴⁹ 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 1986⁵⁰:

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.

49. 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 [Proviso to sub-rule (4) of rule 2B].

50. 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, 5th block of four years will be from 1-1-2002 to 31-12-2005 and 6th block of four years will be from 1-1-2006 to 31-12-2009.

SALARIES**PROFITS IN LIEU OF SALARY/DEDUCTIONS**

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:

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:

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 u/s. 10(6)(i) in view of omission of said section 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) 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)]

In view of omission of section 10(5B), w.e.f. 1-4-2003 (assessment year 2003-04 and onwards), where the tax on salaries of a foreign technician is paid by the employer, 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 YEARS 2005-06 to 2009-10:

(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 assessment year 2005-06 and earlier years as stated hereunder,—

Assessment year	Standard deduction:
2006-07 to 2009-10 . .	is Rs. 'Nil' as section 16(i) is omitted w.e.f. 1-4-2006.
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.

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.

For the purpose of deduction of tax at source on salary payable to employees during the financial year ending 31-3-2006 and subsequent financial years, employer should ensure that standard deduction is not considered.

(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 192⁵¹, 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, 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" [Vide Rule 26B(1)]. This statement is to be accompanied by verification as prescribed in Rule 26B(2). 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 72), 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)].

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 (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)].

For the financial year ending on 31-3-2009, from the estimated salary income so computed, deduct profession tax paid by the employee.

51. For the notes on sub-sections (1A) & (1B) of section 192, refer item 2 on page 85.

The resultant income is the gross salary income for the financial year ending on 31-3-2009 which is subject to the following deductions:

(1) under section 80C in respect of specified savings i.e., L.I.P., P.F., P.P.F., NSC VIII Issue, etc. paid/contributed/invested as explained on page 210;

(2) under section 80CCC in respect of contribution to certain pension funds as explained on page 212;

(3) under section 80CCD in respect of contribution to pension scheme of Central Government as explained on page 213;

(4) under section 80CCE, the aggregate amount of deductions u/s. 80C [Refer (1) above], 80CCC [Refer (2) above] & 80CCD [Refer (3) above] shall not, in any case, exceed Rs. 1,00,000 as explained on page 213;

(5) under section 80D on account of payment of medical insurance premia (Mediclaim) made by the employee as explained on page 213;

(6) under section 80DD in respect of expenditure incurred on the handicapped dependant/dependant with disability as explained on page 214;

(7) under section 80E in respect of interest on loan taken for higher education as explained on page 215;

(8) under section 80G in respect of specified donations made by the employee [Vide Circular No. 8, dt. 5-12-2007: 297 ITR (St.) 18-50]; and

(9) under section 80GG in respect of payment of rents made by the employee as explained on page 217.

The balance figure so arrived at is the taxable salary for the financial year ending on 31-3-2009 (Refer *Example* on page 284).

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, 2008.

It may be noted that deduction for standard deduction u/s. 16(i) and rebate of (deduction from) income-tax u/s. 88, 88B, 88C & 88D is not available as the said sections are omitted w.e.f. 1-4-2006 (assessment year 2006-07 and onwards).

The resultant amount of income-tax so arrived at shall be increased by surcharge on income-tax, if any, and further increased by additional surcharge on I.T. & S.C. (if any). The aggregate amount so arrived at should then be deducted in equal instalments from the salary of each month [For *Example*, refer page 284].

It may be that some arrears of pay, bonus, etc., which were not anticipated to be paid during the financial year ending on 31-3-2009 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 income⁵² is required to file his return of income. Failure to file such return by ‘due date’ as prescribed in section 139(1)⁵³ [for details, refer pp. 188-190], will attract penal interest u/s. 234A @ 1% from 8-9-2003 and onwards [@ 1¼%, from 1-6-2001 to 7-9-2003; @ 1½%, from 1-6-1999 to

52. It may be noted that, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), section 71(2A) provides that where in respect of any assessment year, the net result of computation under the head “Profits and gains of business or profession” is a loss, and the assessee (i.e., employee) has income assessable under the head “Salaries”, the assessee (i.e., employee) shall not be entitled to have such loss set-off against his salary income.

53. 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).

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 may attract penalty under section 271F. For assessment year 2008-09, if return of income is filed after 31-3-2009, penalty of Rs. 5,000 may be levied u/s. 271F [For details, refer page 196].

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 within one week from the last day of the month in which the deduction is made.

The employers deducting tax at source have to file quarterly statements for tax deducted at source. For further details, refer “Chart for deduction of tax at source” on pp. 353-355.

CONSEQUENCES FOR FAILURE TO DEDUCT TAX OR PAY THE TAX SO DEDUCTED

Under section 201⁵⁴, 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 1% for every month or part of a month [at 12% p.a. from 8-9-2003 to 31-3-2008; 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.

54. For the notes on substituted section 201(1) by the Finance Act, 2008, refer item (6) on page 34.

RATE OF INTEREST AS SPECIFIED BY STATE BANK OF INDIA† :

			Interest rate			
			As on 1-4-2004	As on 1-4-2005	As on 1-4-2006	As on 1-4-2007
HOUSING LOAN: (FLOATING RATE):						
1.	Upto 5 years	..	7.50% p.a.	8.00% p.a.	8.50% p.a.	10.25% p.a.
2.	Above 5 years and upto 10 years	..	8.00% p.a.	8.50% p.a.	8.75% p.a.	10.75% p.a.
3.	Above 10 years and upto 15 years	..	8.00% p.a.	8.50% p.a.	9.00% p.a.	10.75% p.a.
4.	Above 15 years and upto 20 years	..	8.25% p.a.	8.75% p.a.	9.25% p.a.	10.75% p.a.
CAR LOAN (NEW VEHICLES) [FLOATING RATE]:						
1.	Upto 3 years (Rs. 8,00,000/Rs. 7,50,000, as on 1-3-2006, & above)	..	7.50% p.a.	7.50% p.a.	8.00% p.a.	11.50% p.a.
2.	Upto 3 years (Below, Rs. 8,00,000/Rs. 7,50,000, as on 1-3-2006):					
	(a) Metro/Urban Brs.	..	8.00% p.a.	8.00% p.a.	8.50% p.a.	11.75% p.a.
	(b) Rural/Semi-urban Brs.	..	8.50% p.a.	8.50% p.a.	8.75% p.a.	11.75% p.a.
3.	Above 3 years and upto 5* years:					
	(a) Metro/Urban Brs.	..	8.25% p.a.	8.25% p.a.	8.75% p.a.	*11.75% p.a.
	(b) Rural/Semi-urban Brs.	..	8.75% p.a.	8.75% p.a.	9.00% p.a.	*11.75% p.a.
EDUCATION LOAN:						
1.	For loans upto Rs. 4,00,000	..	10.50% p.a.	10.50% p.a.	10.50% p.a.	11.50% p.a.
2.	For loans above Rs. 4,00,000	..	11.50% p.a.	11.50% p.a.	11.50% p.a.	13.25% p.a.
PERSONAL LOAN/FESTIVAL LOAN			..	12.75% p.a.	12.75% p.a.	15.25% p.a.
LOANS AGAINST GOLD ORNAMENTS/IMMOVABLE PROPERTY/UNITS OF UTI MUTUAL FUND (UTI-II):						
1.	Upto 1 yr.	..	11.75% p.a.	11.75% p.a.	11.75% p.a.	**
2.	1 year and below 3 years	..	12.25% p.a.	12.25% p.a.	12.25% p.a.	**
3.	3 years and below 6 years	..	12.75% p.a.	12.75% p.a.	12.75% p.a.	**
RENT PLUS SCHEME			..	10.75% p.a.	10.75% p.a.	10.75% p.a.

* For above 5 years and upto 7 years, the rate of interest, as on 1-4-2007, is 12% p.a.

** As on 1-4-2007,—

- (a) For loans, against gold ornaments, repayable upto 30 months,—
- (1) for credit limit upto Rs. 50,000, rate of interest is 11.00% p.a.;
 - (2) for credit limit over Rs. 50,000 upto Rs. 2,00,000, rate of interest is 11.50% p.a.; &
 - (3) for credit limit over Rs. 2,00,000 upto Rs. 3,00,000, rate of interest is 12.50% p.a.;
- (b) For term loans against mortgage of immovable property, rate of interest is 12.50% p.a.

† Source: Website of State Bank of India [www.statebankofindia.com/personalbanking].

INCOME FROM HOUSE PROPERTY**[For assessment year 2005-06 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(iia)].

(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(iib)].

(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

municipalities compute the rateable value after deducting from the gross rental value a certain allowance for repairs and service taxes¹. 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), Chennai (Madras), Delhi and Kolkata (Calcutta), 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 receivable², 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 receivable² 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 2008-09, 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 31-3-2008.

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 31-3-2008			Rs. Nil
Annual value			Rs. 10,000

EXAMPLE 2: In assessment year 2009-10, 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 2008-09 and 2009-10)			Rs. 5,000
Annual value			Rs. 5,000

1. The municipality first determines the gross rent of a house property. From such gross rent, the following expenses are first deducted:—

- if the property is fitted with a lift, liftman salary and cost of electricity consumed, and
- 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.

2. '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,—

- the tenancy is *bonafide*;
- the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- the defaulting tenant is not in occupation of any other property of the assessee;

(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. 7,200. 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. 4,536.

ASSESSMENT YEAR 2008-09:

Municipal taxes levied and paid during the financial year 2007-08:

General tax	..	..	..	Rs.	2,160
Sewerage tax	..	..	..	Rs.	2,808
Education cess	..	..	..	Rs.	864
Sewerage benefit tax	..	..	..	Rs.	540
				<u>Rs.</u>	<u>6,372</u>

Taxes levied by the State Government:

State education cess ³	..	Rs.	432
Repair cess	..	Rs.	4,536
		<u>Rs.</u>	<u>4,968</u>

The annual value of the property will be as under:

Municipal rateable value	..	..	..	..	..	..	..	..	..	Rs.	7,200
Add: 1/9th of Rs. 7,200	..	..	..	..	..	..	..	..	..	Rs.	800
Bona fide letting value	..	..	..	..	..	..	..	..	..	Rs.	8,000
Less: Municipal taxes (excluding State education/repair cess) actually paid	..	..	..	..	..	..	..	..	..	Rs.	6,372
Annual value of the property	..	..	..	..	..	..	..	..	..	Rs.	1,628
Less: Deductions allowable under section 24(a):											
@ 30% of annual value Rs. 1,628	..	..	..	..	..	..	..	..	..	Rs.	488
Repair cess paid ⁴	..	..	..	..	..	..	..	..	..	Rs.	Nil ⁴
State education cess ⁴	..	..	..	..	..	..	..	..	..	Rs.	488
Net property income	..	..	..	..	..	..	..	..	..	<u>Rs.</u>	<u>1,140</u>

(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 2002-03),

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 acquisition 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. 95-96.

3. The percentage of State education cess vary in accordance with the amount of rateable value fixed by the Bombay Municipality.

4. 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. 95-97 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 1-4-2007 to 30-6-2007 i.e., for three months. The compensation received during these 3 months was Rs. 6,000. Since 1-7-2007 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) ⁵	..	..	..	..	..	..	..	..	..	..	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 2007-08, 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, 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. 1,90,000 and Rs. 50,000 on account of interest on fixed deposits with various companies and interest on fixed deposits with banks, respectively. He has invested Rs. 50,000 in NSC VIII Issue on 28-9-2007.

The total income for the assessment year 2008-09 is computed as under:

1. Property income/loss:												
Annual value (being self-occupied)	..	..	..	..	..	..	..	..	..	..	Rs.	⁶ NIL
Less: Deduction under 1st proviso to section 24(b):												
Interest on borrowings by the society (Shri 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.	1,90,000
Interest on fixed deposits with banks	..	..	..	..	..	..	..	..	..	..	Rs.	50,000
											Rs.	2,40,000
Less: Set-off of loss in respect of property income u/s. 71(1) ⁷	..	..	..	..	..	..	..	..	..	..	Rs.	17,000
Gross total income	..	..	..	..	..	..	..	..	..	..	Rs.	2,23,000
Less: Deduction under Chapter VI-A:												
Deduction u/s. 80C:												
Investment in NSC VIII Issue Rs. 50,000. As investment does not exceed												
Rs. 1,00,000, amount deductible is	..	..	..	..	..	..	..	..	..	..	Rs.	50,000
Taxable income	..	..	..	..	..	..	..	..	..	..	Rs.	1,73,000

(vi) Loss from house property:

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 [1st proviso to section 24(b)]. It may be noted that, the maximum permissible deduction in respect of such interest is Rs. 1,50,000 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 period/time specified in (a) & (b) of item (v)(A) on page 97 [2nd and 3rd proviso to section 24(b)]. To illustrate, where the property (acquired on 1-4-2007) is self-occupied

5. As the house has been let-out from 1-4-2007 to 30-6-2007, 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).

6. 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)].

7. Refer item (vi) hereafter.

throughout the year, the annual value as stated above is to be taken at 'nil'. If, during assessment year 2008-09, the interest payable on capital borrowed on 31-3-2007 for the purpose of acquiring 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 98.

(viii) Deductions from house property income:

[Section 24]

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 payable⁸ 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 97], 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 97, 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 97, 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 2007-08 is Rs. 10,000.

Assessment year 2008-09:

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] ⁹	..	..	..	..	..	..	..	..	Rs.	Nil	
(3) Annual charge on the property Rs. 4,000 [not admissible] ⁹	..	..	..	..	..	..	..	..	Rs.	Nil	
(4) Ground rent [not admissible] ⁹	..	..	..	..	..	..	..	..	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] ¹⁰	..	..	..	..	..	..	..	..	Rs.	Nil	
(7) Sum paid on account of land revenue [not admissible] ⁹	..	..	..	..	..	..	..	..	Rs.	Nil	Rs. 19,000
Property income	..	..	..	..	..	..	..	..	..	Rs.	11,000

8. 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].

9. Upto assessment year 2001-02, deductions in respect of these payments were admissible under the then section 24.

10. Since the amount on mortgage is raised for personal expenses, the interest payable thereon is not deductible.

(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 2008-09, 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 2008-09 of Mr. Dalal will be	..	..	..	..	..	<u>Rs. 12,000</u>

- 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 2008-09 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:

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 30% of such amount 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].

PROFITS AND GAINS OF BUSINESS OR PROFESSION**[From assessment year 2005-06 and onwards]****[Sections 28 to 44DA]****(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) profit on sale of import entitlement licences granted to exporter [Section 28(iiiia)];

(e) cash assistance received or receivable by exporter [Section 28(iiib)];

(f) any duty of customs or excise re-paid or re-payable as drawback to exporter [Section 28(iiic)];

(g) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced u/s. 5 of the Foreign Trade (Development and Regulation) Act, 1992 [Section 28(iiid)];

(h) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced u/s. 5 of the Foreign Trade (Development and Regulation) Act, 1992 [Section 28(iiie)];

(i) the value of any benefit or perquisite arising from business or profession [Section 28(iv)];

(j) 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)].

(k) 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)];

(l) 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)].

(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 2003-04 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 2008-09. 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 2008-09;

(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 repairs² 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 repairs² 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 repairs² 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 repairs², premium in respect of insurance against risk or damage or destruction of premises, land revenue, local rates or municipal taxes.

(2) Repairs and insurance of machinery, plant and furniture:

1. For the notes on provisions relating to 'Demerger of companies', refer item 33(1) on page 126.

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 [vide *Explanation* to section 30]. However, depreciation on such capital expenditure may be allowable at the appropriate rates prescribed.

[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 [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. 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 assessee's 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 tea bushes or livestock or 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, dt. 23-3-1943.

(v) *Depreciation of full cost in respect of books:*—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 publications³]; and (2) business of lending library, depreciation @ 100% will be allowed without any monetary ceiling on its cost [Vide item (9) on page 110].

(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) 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 I-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 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

3. 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 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 relating 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 [*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)].

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)^{5/5a} and means:

4. For the notes on provisions relating to "Demerger of companies", refer item (33)(J) on page 126.

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)].

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 account from April to March. He has the following block of assets:

	<i>First Block (Plant 'A')</i>	<i>Second Block (Building 'Y')</i>
	<i>Rs.</i>	<i>Rs.</i>
W.D.V. at beginning of assessment year 2004-05	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 2005-06	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 2006-07	14,834	7,62,560
Less: Depreciation @ 15% (First Block)/10% (Second Block)	2,225	76,256
W.D.V. at beginning of assessment year 2007-08	12,609	6,86,304
Less: Depreciation @ 15% (First Block)/10% (Second Block)	1,891	68,630
W.D.V. at beginning of assessment year 2008-09	10,718	6,17,674

Assessment year 2008-09:

During the financial year ending on 31-3-2008, Mr. Shah —

(1) acquires new plant "B" on 3-9-2007 for	Rs. 5,00,000	
(2) sells old plant "A" on 4-9-2007 for	Rs. 4,75,000	
(3) acquires new building "Z" on 3-9-2007 for	Rs. 10,00,000	
(4) sells old building "Y" on 4-9-2007 for	Rs. 15,00,000	
W.D.V. at beginning of assessment year 2008-09	10,718	6,17,674
Add: Cost of plant "B"/building "Z" acquired during the previous year	5,00,000	10,00,000
	5,10,718	16,17,674
Less: Sale proceeds of plant "A"/ building "Y" during the previous year	4,75,000	15,00,000
	35,718	1,17,674
W.D.V. before depreciation	35,718	1,17,674
Less: Depreciation @ 15% (First Block)/10% (Second Block)	5,358	11,767
W.D.V. at beginning of assessment year 2009-10	30,360	1,05,907

5. For the notes on provisions relating to "Demerger of companies", refer item (33)(K) on page 126.

5a. For the notes on Explanation 6 inserted in section 43(6) by the Finance Act, 2008, refer para 3.5 on page 38.

In the *Example* on page 105, 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 2008-09 but the excess of Rs. 4,89,282 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 149.

(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 used⁶ 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 [refer pp. 107-110]. 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 I, 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. 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.

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 years 2003-04⁷ & onwards:**APPENDIX I**

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

Blocks of assets	Depreciation allowance as % of written down value	
	2	
	ASSESSMENT YEAR	
1	2006-07 & onwards	2003-04 to 2005-06
PART A. TANGIBLE ASSETS		
I. BUILDING: [see Notes 1 to 4 below this Table on page 110]		
(1) Buildings which are used mainly for residential purposes except hotels and boarding houses	5	5
(2) Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below.. .. .	10	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	100
(4) Purely temporary erections such as wooden structures	100	100
II. FURNITURE AND FITTINGS:		
Furniture and fittings including electrical fittings [see Note 5 below this Table on page 110] ..	10	15
III. MACHINERY AND PLANT:		
(1) Machinery and plant other than those covered by sub-items (2), (3) and (8) below	15	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	15	20
(3) (i) Aeroplanes—Aero engines	40	40
(ii) Motor buses, motor lorries ⁸ and motor taxis used in a business of running them on hire ..	30	40
(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 this Table on page 110]	40	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 this Table on page 110]	60	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 this Table on page 110]	60	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 this Table on page 110]	50	50
(vii) Moulds used in rubber and plastic goods factories	30	40
(viii) Air pollution control equipments, being—		
(a) Electrostatic precipitation systems	100	100
(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].

ASSESSMENT YEAR

2006-07 & onwards	2003-04 to 2005-06

(d) Chemical feed systems and flash mixing equipment	100	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	30	40
(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		
⁹ (xia) Life saving medical equipment, being —		
(a) D. C. Defibrillators for internal use and pace makers		
(b) Haemodialysors		
(c) Heart lung machine	40	40
(d) Cobalt therapy unit		
(e) Colour doppler		
(f) SPECT Gamma camera		
(g) Vascular Angiography System including digital subtraction 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 chemotherapy	50	50
(n) Fibre optic endoscopes including paediatric resectoscope/audit resectoscope, Peritoneoscopes, Arthroscope, Microlaryngoscope, Fibreoptic Flexible Nasa Pharyngo Bronchoscope, Fibreoptic Flexible Laryngo Bronchoscope, Video Laryngo Bronchoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope		
(o) Laparoscope (single incision)		
(4) Containers made of glass or plastic used as re-fills		
(5) Computers including computer software [see Note 7 below this Table on page 110]		
(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 this Table on page 110]		
(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 this Table on page 110]		
(8) (i) Wooden parts used in artificial silk manufacturing machinery	100	100
(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	50	50
(v) Salt works — Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material		

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].

	ASSESSMENT YEAR	
	2006-07 & onwards	2003-04 to 2005-06
(vi) Flour mills — Rollers (vii) Iron and steel industry — Rolling mill rolls (viii) Sugar works — Rollers (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 systems (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	80	80

BUSINESS

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DEPRECIATION RATES (A.Y. 2003-04 & onwards)

		ASSESSMENT YEAR	
		2006-07 & onwards	2003-04 to 2005-06
(x)	Gas cylinders including valves and regulators	60	80
(xi)	Glass manufacturing concerns — Direct fire glass melting furnaces		
(xii)	Mineral oil concerns:		
	(a) Plant used in field operations (above ground) distribution-returnable packages	80	80
	(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		
(xiii)	Renewed energy devices being—		
	(a) Flat plate solar collectors		
	(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 assessee carrying on a profession—	100	100
	(a) Books, being annual publications		
	(b) Books, other than those covered by entry (a) above		
	(ii) Books owned by assessee carrying on business in running lending libraries	100	100
IV. SHIPS:		20	25
(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		
(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 this Table hereafter)		
PART B		25	25
INTANGIBLE ASSETS			
Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature		25	25

NOTES:

- “Buildings” include roads, bridges, culverts, wells and tubewells.
- 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.
- 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 1 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.
- Water treatment system includes system for desalinisation, demineralisation and purification of water.
- “Electrical fittings” include electrical wiring, switches, sockets, other fittings and fans, etc.
- “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).
- “Computer software” means any computer programme recorded on any disc, tape, perforated media or other information storage device.
- “TUFSS” 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.
- 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.
- “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 % 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 kutchra 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 condenser	..	..	..	..	..	..	..	..	5.27
(h)	Batteries:										33.4
	(i)	Underground cable including joint boxes and disconnected 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)(ia) 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)].

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 [5th¹⁰ proviso to section 32(1)].

(xv) *Additional depreciation on new machinery or plant*: Clause (ia) of section 32(1) provides for additional depreciation in relation to assessment year 2003-04 and subsequent years,—

(A) IN RESPECT OF NEW MACHINERY OR PLANT ACQUIRED AND INSTALLED AFTER 31-3-2005:

Substituted clause (ia) of section 32(1) provides for additional depreciation in relation to assessment year 2006-07 and subsequent years. The said clause (ia) provides that in the case of new machinery or plant (other than ships and aircraft) acquired and installed after 31-3-2005, by an assessee engaged in the business of manufacture or production of any article or thing, additional depreciation @ 20%¹¹ of the actual cost of such machinery or plant will be allowed as deduction u/s. 32(1)(ii). Additional depreciation allowed will be deducted from the W.D.V. of the asset.

Additional depreciation will not be allowed in respect of—

- (1) any machinery or plant before its installation by the assessee, was used either within or outside India by any other person; or
- (2) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or
- (3) any office appliances or road transport vehicles; or
- (4) any machinery or plant, 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.

(B) IN RESPECT OF NEW MACHINERY OR PLANT ACQUIRED AND INSTALLED AFTER 31-3-2002 BUT BEFORE 1-4-2005:

The then clause (ia) of section 32(1) provides for additional depreciation in relation to assessment year 2003-04 and subsequent years. The said clause (ia) provides that in the case of any new machinery or plant (other than ships and aircraft) acquired and installed after 31-3-2002 but before 1-4-2005, 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 undertaking¹² 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 substantial expansion by way of increase in installed capacity¹³ by not less than 10% [25%, in relation to assessment years 2003-04 and 2004-05] [1st proviso to the then section 32(1)(ia)].

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 accommodation 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)(ia).

10. For the notes on provisions relating to "Demerger of companies", refer item (33)(B) on page 125.

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., @ 10%, or as the case may be, 7½%) [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 the then section 32(1)(ia)].

13. "installed capacity" is defined to mean the capacity of production as existing on the 31st day of March, 2002 [Explanation to the then section 32(1)(ia)].

(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.

EXAMPLE:— For the assessment year 2007-08 an assessee had the following sources of income:

[illegible]

Total income for the assessment year 2007-08 will be 'nil'. Balance of unabsorbed depreciation of Rs. 3,000 will be carried forward to the assessment year 2008-09.

ASSESSMENT YEAR 2008-09:

(a) Income from confectionery business [excluding depreciation]	..	..	..	..	Rs. 14,000
(b) Income from cloth business	..	..	..	..	<u>Rs. 3,000</u>
					Rs. 17,000
Less: Depreciation due for the assessment year 2008-09 [Conf. Bus.]	..				Rs.12,000
Unabsorbed depreciation of the assessment year 2007-08:					
Unabsorbed depreciation to be treated as current depreciation [vide sub-section (2) of section 32]	..	..	..	..	<u>Rs. 3,000</u>
					Rs. 15,000
Income from business	..	..	..	..	Rs. 2,000
Income from property	..	..	..	..	Rs. 4,000
Income from other sources	..	..	..	..	<u>Rs.1,09,000</u>
Gross total income	..				<u>Rs.1,15,000</u>

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 pp. 185-186.

For the notes on ‘unabsorbed depreciation’ in relation to assessment year 2001-02 and earlier years, refer page 116 of ITRR 2004-05 (66th Year of Publication).

(4) Tea development account, coffee development account and rubber development account:
[Section 33AB]

Provisions of section 35AB are applicable to an assessee carrying on business of growing and manufacturing tea or coffee or rubber 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; or

(b) deposited any amount in an account [hereafter referred to as 'the Deposit Account'] 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% 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 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. W.e.f. 1-6-2006, Form No. 3AC is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

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.

Any amount standing to the credit of the assessee in the special account or the Deposit Account 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 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 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. W.e.f. 1-6-2006, Form No. 3AD is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

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]**

FOR ASSESSMENT YEAR 2004-05:

A deduction not exceeding 100% 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 conditions prescribed u/s. 33AC. For details, refer pp. 117-118 of ITRR 2007-08 (69th Year of Publication).

FROM ASSESSMENT YEAR 2005-06 AND ONWARDS:

For and from assessment year 2005-06 and onwards, deduction u/s. 33AC is not allowable in view of insertion of 3rd proviso to section 33AC. In lieu of withdrawal of deduction u/s. 33AC, 'Special provisions relating to income of shipping companies' has been prescribed in Chapter XII-G (Sections 115V to 115 VZC) from the said assessment year. For the notes on provisions of the said Chapter, refer item (C) on page 132.

(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)].

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 and notified by the Central Government. From assessment year 2006-07 and onwards, such association, university, college or other institution is to be approved in accordance with the guidelines, in the manner and subject to such conditions as prescribed in rule 5C & 5D of the Income-tax Rules and notified by the Central Government [Section 35(1)(ii)^{13a}].

(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 and notified by the Central Government. From assessment year 2006-07 and onwards, such university, college or other institution is to be approved in accordance with the guidelines, in the manner and subject to such conditions as prescribed in rule 5C of the Income-tax Rules and notified 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 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* 2 to section 35(2AA) [Section 35(2AA)].

13a. For the notes on newly inserted section 35(1)(ia) by the Finance Act, 2008, refer para 3.1(A) on page 00.

(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)^{13b}].

The conditions for allowing weighted deduction u/s. 35(2AB) are—

(1) the company should be engaged in the business of bio-technology or 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 notified¹⁴ 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. “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 31-3-2012. Expenditure incurred after 31-3-2012 will not be eligible for weighted deduction u/s. 35(2AB) [Section 35(2AB)(5)];

(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)].

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. From assessment year 2006-07 and onwards, the notification will be issued by the Central Government provided such association, etc. is approved in accordance with the guidelines, in the manner and subject to such conditions as prescribed in rule 5C & 5D of the Income-tax Rules;

(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-I/3CF-II to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the applicant.

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

13b. For the notes on newly inserted section 35(2AB)(6) by the Finance Act, 2008, refer para 3.1(B) on page 00.

14. 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]. Manufacture or production of automobiles, including automobile components being an article or thing notified for the purpose of section 35(2AB)(1) [Vide Notification No. S.O. 1021(E), dt. 21-9-2004: 270 ITR (St.) 119].

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)¹⁵]. 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 35AB¹⁶]

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)].

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)].

15. For the notes on provisions relating to "Demerger of companies", refer item (33)(D) on page 126.

16. For the notes on provisions relating to "Demerger of companies", refer item (33)(E) on page 126.

However, where in a scheme of amalgamation¹⁷, 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. W.e.f. 1-6-2006, Form No. 58B is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

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 (NC) 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. W.e.f. 1-10-2004, approval/notification can also be withdrawn for failure to furnish to the NC, after the end of each financial year, a report in Form No. 58C/58D setting forth the prescribed particulars within the prescribed time (i.e., before the expiry of 3 months from the end of the financial year). A copy of the order withdrawing the approval/notification is to be furnished by the NC to the Assessing Officer [Section 35AC(4) & (5)].

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) Section 35CCA 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

(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.

17. For the notes on provisions relating to “Demerger of companies”, refer item (33)(F) on page 126.

The deduction for contribution to approved rural development programmes [mentioned in (a) on page 119] and for training of persons for implementing rural development programmes [mentioned in (b)(1) on page 119] 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^{17a}]

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%¹⁸ 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%¹⁸ of the capital employed as defined in clause (b) of the said *Explanation*. One-fifth¹⁸ of such expenditure will be allowed as a deduction in each of the five¹⁸ 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. 3AE along with the return of income for the first year in which the amortisation is claimed [Section 35D(4)]. W.e.f. 1-6-2006, Form No. 3AE is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

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)¹⁹].

17a. For the notes on amendments made in section 35D by the Finance Act, 2008, refer para 3.2 on page 00.

18. 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 years.

19. For the notes on provisions relating to “Demerger of companies”, refer item (33)(G) on page 126.

(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 in connection with 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 any mode of payment other than cash [paid by cheque, upto assessment year 2007-08] by an employer 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. From assessment year 2007-08 and onwards, such insurance premium paid in accordance with a scheme framed by any other insurer and approved by the Insurance Regulatory and Development Authority established u/s. 3(1) of the Insurance Regulatory and Development Authority Act, 1999 is also 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 127.

(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 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 aforesaid 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 pp. 186-187].

(19) Discount on zero coupon bond:**[Section 36(1)(iiia)]**

From assessment year 2006-07 and onwards, section 36(1)(iiia) provides that the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond, calculated in the prescribed manner, will be allowed as deduction in computing the business income of infrastructure capital company (ICC) or infrastructure capital fund (ICF) or public sector company (PSC) issuing such bond. The *Explanation* to the said clause (iiia) defines 'discount' as the difference between the amount received or receivable by the ICC or ICF or PSC issuing the said bond and the amount payable by the ICC or ICF or PSC on maturity or redemption of such bond. The 'period of life of the bond' means the period from date of issue to the date of maturity or redemption of such bond.

(20) 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 127.

(21) 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 127.

(22) 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.

(23) 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.

(24) 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.

(25) Expenditure incurred by certain corporation/body corporate:**[Section 36(1)(xii)]**

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. In relation to assessment year 2008-09 and subsequent years, the deduction as stated above will be allowed subject to further condition that such corporation or body corporate is notified by the Central Government in the Official Gazette for the purposes of section 36(1)(xii).

(26) Banking cash transaction tax:**[Section 36(1)(xiii)^{19a}]**

From assessment year 2006-07 and onwards, section 36(1)(xiii) provides that amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him, will be allowed as deduction in computing income from business or profession in the year of payment. For the notes on banking cash transaction tax, refer page 267 of ITRR 2007-08 (69th Year of Publication).

(27) 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.

(28) Advertisement expenditure:**[Section 37(1) & 37(2B)]**

(1) From assessment year 1998-99 and onwards, advertisement expenditure actually incurred [other than those mentioned in para (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)].

(29) 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.

(30) 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).

(31) 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, 33 $\frac{1}{3}$ % 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) on page 123], as well as total commission from the Life Insurance Corporation as specified in Circular No. 648, dt. 30-3-1993 [Refer (A) on page 123].

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.

(32) 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].

(33) 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: For assessment year 2004-05, a special deduction is allowed for shipping business, subject to conditions. 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 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) **PATENTRIGHTS/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 118]. 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 118]. 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. 118-119]. 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 120]. 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 102]. 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 104]. *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 105]. *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.

AMOUNTS NOT DEDUCTIBLE FROM BUSINESS INCOME**[Sections 40, 40A & 43B]****(i) Disallowance of unpaid statutory liability:****[Section 43B]***ASSESSMENT YEAR 2005-06 & ONWARDS:*

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.

<i>Expenditure/Liability</i>	<i>"Due date" for payment to claim deduction in the same previous year in which liability arose</i>
(a) Tax, duty, cess or fees, under any law (i.e., 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.
(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) 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 ²⁰ 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 ²¹ from a scheduled bank ²² in accordance with the terms and conditions of the agreement governing such loan or advances	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 date 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).

(2) 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.

(3) Where deduction is *not* allowed due to non-payment before the due date, the same will be allowed in the year of actual payment.

(4) 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 intimation u/s. 143(1)(a) or order u/s. 143(3) and decide the same on merits [Vide Circular No. 669, dt. 25-10-1993: 204 ITR (St.) 105]. The assessee is advised to ensure that the proof of payment/certificate is filed along with the return of income.

(5) 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."

20. Interest on any loan or borrowing, referred to in (e) above, will be allowed if such interest has been actually paid and any such interest which has been converted into a loan or borrowing shall not be deemed to have been actually paid [*Explanation 3C* to section 43B].

For Board's clarification, refer Circular No. 7, dt. 17-7-2006: 284 ITR (St.) 26.

21. Interest on any loan or advances, referred to in (f) above, will be allowed if such interest has been actually paid and any such interest which has been converted into a loan or advance shall not be deemed to have been actually paid [*Explanation 3D* to section 43B].

For Board's clarification, refer Circular No. 7, dt. 17-7-2006: 284 ITR (St.) 26.

22. 'Scheduled bank' means scheduled bank as defined in the *Explanation* to section 11(5)(iii) which includes co-operative bank also.

(ii) Expenditure not deductible:**[Sections 40 & 40A]**

The following amounts are not admissible deductions for the purpose of computing income from business or profession:

(1) 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 a deduction if tax thereon deductible at source under Chapter XVII-B 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 any 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 the 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 [Section 40(a)(i) read with proviso].

(2) Any interest, commission or brokerage, [rent, royalty (from assessment year 2007-08 and onwards vide para 13.4 of Circular No. 1, dt. 27-4-2007 : 290 ITR (St.) 73-79)], 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 as 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 any 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 clause (i) of the *Explanation* to section 194H; (2) “fees for technical services”, refer *Explanation 2* to section 9(1)(vii); (3) “professional services”, refer clause (a) of the *Explanation* to section 194J; (4) “work”, refer *Explanation III* to section 194C; (5) “rent” refer *Explanation* to section 194-I; and (6) “royalty”, refer *Explanation 2* to section (9)(1)(vi) [Section 40(a)(ia) read with proviso^{22a}].

(3) Any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 will not be allowed as a deduction in computing the income from business or profession [Section 40(a)(ib)^{22a}]. However, rebate will be allowed u/s. 88E for such tax [For details, refer item (9) on page 229].

(4) From assessment year 2006-07 and onwards, any sum paid on account of fringe benefit tax under Chapter XII-H will not be allowed as expenditure for the purpose of computing income from business or profession [Section 40(a)(ic)]. For the notes on Chapter XII-H, refer pp. 198-203.

(5) 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, and if the tax has not been paid thereon nor deducted at source therefrom under Chapter XVII-B [Section 40(a)(iii)].

(6) 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)].

(7) 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 pp. 186-187. Any payment in excess of the said limits and/or conditions will not be allowed.

(8) 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) on above paid to the person so represented by the member, i.e., HUF, will be disallowed instead [*Explanation 2* to section 40(ba)];

(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)].

^{22a} amendment of section 40(a)(1a) and on omission of section 40(a)(ib) by the Finance Act, 2008, refer para 3.3A and 3.3(A), respectively, on page 38 & 37.

(9) 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)].

(10) 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 by²³

:

[Section 40A(3)^{23a}]

Assessment year 2008-09 & onwards:

Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding Rs. 20,000 otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the whole of such expenditure shall not be allowed as a deduction. Where any liability for any expenditure incurred is allowed as a deduction on accrual basis in the relevant assessment year, and subsequently during any previous year (hereinafter referred to as subsequent year), the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year, if the amount of payment exceeds Rs. 20,000.

However, no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession u/s. 40A(3) where any payment of a sum exceeding Rs. 20,000 is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft, in cases and circumstances prescribed under substituted Rule 6DD. For the text of clauses (a) to (h), refer substituted Rule 6DD of the Income-tax Rules, 1962. Text of clauses (i) to (l) of substituted Rule 6DD is as under:

(i) 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;

(j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(k) 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;

(l) 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.

23. Upto 12-7-2006, for the words “an account payee cheque drawn on a bank or account payee bank draft”, read “a crossed cheque drawn on a bank or by a crossed bank draft”.

23a. For the notes on substituted section 40A(3) and insertion of new section 40A(3A) by the Finance Act, 2008, refer para 3.4 on page 38.

Upto assessment year 2007-08:

Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding Rs. 20,000 otherwise than by^{23b} *an account payee cheque drawn on a bank or account payee 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 accrual 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^{23b} *an account payee cheque drawn on a bank or account payee 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 the then Rule 6DD.

(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,—

(a) assessment year 2007-08 and onwards, is less than 10% of its book profit,

(b) assessment years 2001-02 to 2006-07, 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—

(a) income-tax at the rate of 10%, in relation to assessment year 2007-08 and onwards,

(b) income-tax at the rate of 7½%, in relation to assessment years 2001-02 to 2006-07.

The income-tax so arrived at is to be increased by surcharge on I.T./additional surcharge on I.T. & S.C., 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) *Explanation* to section 115JB^{23c} 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 called²⁴ *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

^{23b}. Refer footnote No. 23 on page 129.

^{23c}. For the notes on amendments made in the *Explanation & insertion of new Explanation 2 to section 115JB by the Finance Act, 2008*, refer para 3.6 on page 38.

²⁴. The words in *italics* inserted by the Finance Act, 2002, w.e.f. 1-4-2003 (assessment year 2003-04 and subsequent years).

(f) *in relation to assessment 2008-09 and subsequent years*, expenditure relatable to any income exempt under sections 10 [other than the provisions contained in clause (38) thereof] or 11 or 12 of the Income-tax Act,

in relation to assessment year 2007-08 and earlier years, expenditure relatable to any income exempt under sections 10 [other than the provisions contained in: (1) clause (38) thereof, in relation to assessment year 2007-08; (2) clause (23G) thereof, in relation to assessment years 2005-06 & 2006-07] or 10A or 10B or 11 or 12 of the Income-tax Act; or

(g) the amount of depreciation, in relation to assessment year 2007-08 and onwards, if any amount referred to in (a) to (f)/(a) to (g) 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) *in relation to assessment year 2008-09 and subsequent years*, income which is exempt under sections 10 [other than the provisions contained in clause (38) thereof] or 11 or 12 of the Income-tax Act, if any amount is credited to the profit and loss account,

in relation to assessment year 2007-08 and earlier years, income which is exempt under sections 10 [other than the provisions contained in: (1) clause (38) thereof, in relation to assessment year 2007-08; (2) clause (23G) thereof, in relation to assessment years 2005-06 & 2006-07] 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) the amount of depreciation debited to the profit and loss account (excluding the depreciation on account of revaluation of assets), in relation to assessment year 2007-08 and subsequent years; or

(iv) the amount withdrawn from revaluation reserve and credited to the profit and loss account, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in (iii) above, in relation to assessment year 2007-08 and subsequent years; or

(v) 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

(vi) 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

(vii) 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

(viii) the amount of profits eligible for deduction u/s. 80HHF, computed u/s. 80HHF(3), and subject to conditions specified in section 80HHF; or

(ix) 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; or

(x) the book profit or loss derived from the activities of a tonnage tax company, referred to in section 115 V-I in relation to assessment year 2005-06 and subsequent years [Vide section 115 V-O. Refer item (C) on page 132].

(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 furnished along with the return of income furnished u/s. 139(1)/142(1)(i) [Section 115JB(4)]. W.e.f. 1-6-2006, Form No. 29B is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

(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) In relation to assessment year 2005-06 and earlier years, provisions of section 115JAA [Refer item (B) on page 132] does not apply to minimum tax paid u/s. 115JB and hence no credit for tax paid u/s. 115JB will be allowed.

(VII) Provisions of section 115JB shall not apply to the income accrued or arising on or after 1-4-2005, from any business carried on, or services rendered, by an entrepreneur or a developer, in a unit or Special Economic Zone [Section 115JB(6)].

(VIII) 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. However, in relation to assessment year 2006-07 and subsequent years, where the amount of tax is paid u/s. 115JB(1) [Refer item (A) on page 130] by a company, then, credit in respect of tax so paid will be allowed to the company u/s. 115JAA [Section 115JAA(1A)]. The tax credit to be allowed shall be the difference between the tax paid for any assessment year u/s. 115JA(1) and or section 115JB(1), as the case may be, 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. However, w.e.f. 1-4-2007 (assessment year 2007-08 and onwards), the tax credit for tax paid u/s. 115JB(1) [and not u/s. 115JA(1)] shall be allowed to be carried forward for seven (as against 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)].

(C) DEEMED INCOME RELATING TO SHIPPING COMPANIES:

[Chapter XII-G (Sections 115V to 115VZC)]

Upto assessment year 2004-05, section 33AC provided for 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 115]. 3rd proviso 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 XII-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 a 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 exercised, 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 computed u/s. 115VG shall be deemed to be profits under the head "Profits and gains of business or profession". *Section 115VG* prescribes manner of computation of daily tonnage income²⁵. *Section 115VH* prescribes manner for calculation of tonnage income in case of joint operation, etc. *Section 115VI* prescribes manner of computing relevant shipping income of a tonnage tax 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 115VO* 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 scheme²⁶. *Section 115VQ* prescribes period for which tonnage tax option to remain in force. *Section 115VR* prescribes manner of renewal of tonnage tax scheme²⁶. *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. An order passed by a Joint Commissioner u/s. 115VP(3)(ii) is an appealable order before Commissioner (Appeals) u/s. 246A(1)(a). An assessee aggrieved by an order passed by an Assessing Officer u/s. 115 VZC(1) may appeal to Appellate Tribunal u/s. 253(1)(ba).

25. The manner of computation of daily tonnage income is as under:

Qualifying ship having net tonnage
upto 1,000

exceeding 1,000 but not more than 10,000
exceeding 10,000 but not more than 25,000
exceeding 25,000

Amount of daily tonnage income
Rs. 46 for each 100 tons

Rs. 460 plus Rs. 35 for each 100 tons exceeding 1,000 tons
Rs. 3,610 plus Rs. 28 for each 100 tons exceeding 10,000 tons
Rs. 7,810 plus Rs. 19 for each 100 tons exceeding 25,000 tons.

26. An application u/s. 115VP(1)/115VR(1) for exercising/renewing the option for tonnage tax scheme, shall be made in Form No. 65 [Vide Rule 11P of Income-tax Rules].

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, 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, if any, 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* 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:

- (a) For each heavy goods vehicle
(b) For each vehicle other than heavy goods vehicle

Deemed profit:

- .. Rs. 3,500 per month or part of a month,
.. Rs. 3,150 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, if any, will be allowed.

Maintenance of books of account, etc. by certain professional persons:

[Section 44AA²⁷ 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;

27. An assessee opting for assessment of his business income on presumptive basis under sections 44AD, 44AE and 44AF [Refer page 133 and above] 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.

- (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.

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 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.

(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 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 196].

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 notify²⁸ 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, assessee 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

28. The Central Government has notified the "Accounting standards to be followed by all assessee 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).

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 44AB²⁹]

Section 44AB 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 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, 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.

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 return³⁰, 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^{30/30a}.

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 $\frac{1}{2}\%$ 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 arathias³¹ 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.”.

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.

30. In the case of assessee in the State of Jammu & Kashmir, due date for obtaining tax audit report u/s. 44AB in relation to assessment year 2005-06, is extended from 31-10-2005 to 31-3-2006 [Vide Order No. F. No. 220/1/2005-IT (A-II), dt. 27-10-2005: 278 ITR (St.) 19].

In the case of assessee in the State of Gujarat, the due date for obtaining audit report u/s. 44AB, in relation to assessment year 2006-07, is extended from 31-10-2006 to 31-12-2006 [Vide F. No. 220/5/2006-ITA-II, dt. 13-10-2006: 286 ITR (St.) 56].

In the case of companies (other than companies assessed or assessable in the State of Gujarat), due date for obtaining the report of audit u/s. 44AB, in relation to assessment year 2006-07, is extended from 31-10-2006 to 30-11-2006 [Vide F. No. 133/38/2006-TPL (Pt), dt. 24-10-2006: 286 ITR (St.) 86].

In the case of companies and firms which are required to furnish e>Returns for assessment year 2007-08, due date of filing report of audit u/s. 44AB, is extended from 31-10-2007 to 15-11-2007 [Vide F. No. 225/147/2007-ITA-II (Pt), dt. 31-10-2007: 295 ITR (St.) 10].

In the case of assessee in the State of Bihar, the due date for obtaining tax audit report u/s. 44AB, in relation to assessment year 2007-08, has been extended from 31-10-2007 to 31-12-2007 [Vide F. No. 220/4/2007-ITA-II, dt. 30-10-2007: 295 ITR (St.) 10].

30a. For the notes on amendment of the to section 44AB by the Finance Act, 2008, refer para 7.1 on page 41.

31. In the case of agents whose position is similar to that of Kachha arathias, the turnover is only the commission and does not include sales on behalf of the principal.

Capital gains means any profits or gains arising from the transfer of a capital asset effected in the previous year.

(a) CAPITAL ASSET:

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, furniture, motor car, airconditioner, refrigerator, etc.; held for personal use by the assessee or by any member of his family dependent on him.

However, definition of the term capital asset shall *include* jewellery¹ and from assessment year 2008-09 and onwards, it shall also include archaeological collections, drawings, paintings, sculptures and any work of art, even though these assets are personal effects and transfer of such personal effects will attract tax on capital gains [Section 2(14)(ii)].

- (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)].

(b) FAIR MARKET VALUE:

“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 to be framed by the Board.

(c) SHORT-TERM AND LONG-TERM CAPITAL ASSET:

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,—

Nature of asset	Short-term capital asset	Long-term capital asset
(1) For assets being shares in a company or any other security ² 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) or from asst. year 2006-07, a zero coupon bond	held for <i>not more than</i> 12 months	held for <i>more than</i> 12 months
(2) For assets other than assets specified in (1) above	held for <i>not more than</i> 36 months	held for <i>more than</i> 36 months.

1. 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)].

2. 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 correlated 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.D on page 337.

(2) Under *Explanation 1* to section 2(42A)³, 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 (j) of item (3) on page 142], 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) 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) from assessment year 2008-09 and onwards, in the case of a capital asset, being any specified security⁴ or sweat equity shares⁴ allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period will be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;
- (h) in respect of capital asset other than those mentioned in (a) to (g) 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.

3. For the notes on provision relating to 'Demerger of companies', refer item (A) on page 151.

4. "specified security" and "sweat equity shares" shall have the meanings respectively assigned to them in the *Explanation* to section 115 WB(1)(d) (refer footnote No. 2 & 3 on page 198) [Vide *Explanation 3* to section 2(42A)].

(d) TRANSFER:

“Transfer”, in relation to a capital asset, includes the sale, exchange⁵ 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 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; or the maturity or redemption of a zero coupon bond.

Transfer includes possession of immovable property given without registration of conveyance deed; and also 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.

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, 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 1-5-2006, 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 1-5-2006 was Rs. 6,00,000. On 1-3-2008 he sells the land for Rs. 17,00,000 to a builder. His capital gain and business income for assessment years 2007-08 and 2008-09 will be:

Assessment year 2007-08:										Rs.	Nil ⁶
Capital gain	..	..	..	..	..	..	..	..	..		
Assessment year 2008-09:											
(i) <i>Capital gain</i> : On land on conversion from capital asset into stock-in-trade:											
Fair market value on 1-5-2006, being the date of conversion	..	..	..	..	..	..	..	..	..	Rs.	6,00,000
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 × 551 ⁷ ÷ 100 ⁷	..	..	..	..	..	..	..	..	..	Rs.	5,51,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]	..	..	..	..	..	..	..	..	..	Rs.	49,000
(ii) <i>Business income</i> : 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., 1-5-2006)	..	..	..	..	..	..	..	..	..	Rs.	6,00,000
Business income	..	..	..	..	..	..	..	..	..	Rs.	11,00,000
Thus, the aggregate of long-term capital gain & business income for the asstt. year 2008-09 will be	..	..	..	..	..	..	..	..	..	Rs.	11,49,000

Illustration 2: In the *Illustration 1* on page 139, suppose Mr. Shah had started his business on 30-4-1983 and converted the 5. 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].

6. In assessment year 2007-08, 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 2008-09.

7. For notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

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 2008-09:

Capital gain in respect of conversion of land as stock-in-trade of the business	..	..	..	..	Rs.	<u>Nil⁸</u>

Assessment year 2008-09:

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.	<u>8,00,000</u>
						Business income	Rs.	<u>9,00,000</u>

(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 method⁹. 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)].

(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. 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 [Sections 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).

However, such a transaction will be chargeable to capital gains under section 47A(1), if—

8. 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.

9. For gist of Circular No. 768, dt. 24-6-1998, refer item G.2.D on page 337.

- (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. Cost of its acquisition will be as explained on page 146.
- (j) *Capital gain on transfer of a trade mark or brand name associated with a business*: The gain arising from transfer of a trademark or brand name associated with a business is chargeable to tax as capital gain. Cost of its acquisition will be as explained on page 146.
- (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. Cost of its acquisition will be as explained on page 146.
- (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. Cost of its acquisition will be as explained on page 146.
- (m) *Capital gain on transfer of right to carry on any business*: The gain arising from the transfer of right to carry on any business is chargeable to tax as capital gain. Cost of its acquisition will be as explained on page 146.
- (n) The gain arising on transfer of capital asset including intangible asset by a firm/sole proprietary concern to a company is not chargeable to capital gains u/s. 47(xiii)/47(xiv) if the firm/sole proprietary 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 (p) of item 3 on page 142].
- If the conditions specified in the proviso to section 47(xiii)/47(xiv) are not complied with by the firm/sole proprietary 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].

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).*
- (c) Any transfer of a capital asset under a gift or will or an irrevocable trust. *Refer section 47(iii).*
- However, 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 page 140.
- (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).*

10. For the notes on provisions relating to ‘Demerger of companies’ refer item (B) on page 151.

10a. For the notes on new clauses (xa) & (xvi) in section 47 by the Finance Act, 2008, refer para 4.1 on page 39.

(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, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government u/s. 45(7) of the Banking Regulation Act, 1949, of a capital asset by the banking company to the banking institution. *Refer section 47(viaa).*

(h) From assessment year 2008-09, any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank. *Refer section 47(vica).*

(i) From assessment year 2008-09, any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank. *Refer section 47(vicb).*

(j) 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).*

(k) Any transfer of a capital asset, being bonds or Global Depository Receipts referred to in section 115AC(1), made outside India by a non-resident to another non-resident. *Refer section 47(viia).*

(l) Any transfer of agricultural land in India before 1-3-1970. *Refer section 47(viii).*

(m) 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).*

(n) 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).*

(o) 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).*

(p) Any transfer of capital asset including intangible asset by a firm/sole proprietary 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 proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary 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 proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(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) on facing page, 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) on the said page, are not complied with.

(q) Any transfer of a capital asset to a company in the course of demutualisation or corporatisation 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 of a recognised stock exchange in India is carried out in accordance with a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India [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)].

(r) 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(xiiiia).*

(s) 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 or the Reserve Bank of India. *Refer section 47(xv).*

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) $\text{Cost of acquisition} \times \text{Cost Inflation Index of the year in which the asset is transferred} \div \text{Cost Inflation Index of the year of acquisition or the year beginning on 1-4-1981, whichever is later};$

(b) $\text{Cost of improvement} \times \text{Cost Inflation Index of the year in which the asset is transferred} \div \text{Cost Inflation Index of the year of improvement to the asset}.$

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 2007-08 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), 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. 844E, dt. 24-7-2003 [262 ITR (St.) 28], No. 742(E), dt. 29-6-2004 [268 ITR (St.) 207], No. S.O. 1132(E), dt. 12-8-2005 [277 ITR (St.) 9], No. S.O. 1571(E), dt. 19-9-2006 [286 ITR (St.) 29] & No. S.O. 1356(E), dt. 3-8-2007 [292 ITR (St.) 172]. 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 on page 144 for the Financial Year (including the financial year 2007-08) mentioned in the corresponding entry in column (2) of the said Table.

CAPITAL GAINS COMPUTATION

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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	14.	1994-95	259
2.	1982-83	109	15.	1995-96	281
3.	1983-84	116	16.	1996-97	305
4.	1984-85	125	17.	1997-98	331
5.	1985-86	133	18.	1998-99	351
6.	1986-87	140	19.	1999-2000	389
7.	1987-88	150	20.	2000-01	406
8.	1988-89	161	21.	2001-02	426
9.	1989-90	172	22.	2002-03	447
10.	1990-91	182	23.	2003-04	463
11.	1991-92	199	24.	2004-05	480
12.	1992-93	223	25.	2005-06	497
13.	1993-94	244	26.	2006-07	519
14.	1994-95	259	27.	2007-08	551

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 8 on page 161].

Illustration: Mr. A purchased 1,000 square yards of land at Rs. 100 per square yard in 1970 and sold the same at Rs. 900 per square yard in December, 2007. 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 2008-09 is to be computed as under:

Sale price of 1,000 square yards @ Rs. 900 per square yard	..	..	..	..	Rs. 9,00,000
Less: (1) Cost of acquisition in 1970: 1,000 Sq. yds. @ Rs. 100 per Sq. yd.	..	..	..	..	<u>Rs. 1,00,000</u>
Fair market value as on 1-4-1981: 1,000 Sq. yds. @ Rs. 150 per Sq. yd.	..	..	..	..	<u>Rs. 1,50,000</u>
Indexed cost of acquisition [Vide 2nd proviso to section 48]:					
Rs. 1,50,000 (being F.M.V. as on 1-4-1981) × 551 ¹¹ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100 ¹¹ (being Cost Inflation Index of the financial year 1981-82)	..	..	..	..	Rs. 8,26,500
(2) Expenditure in connection with the sale	..	..	..	..	<u>Rs. 20,000</u>
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]	..	..	..	..	<u>Rs. 53,500</u>

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 a 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 52.

(2) The provisions of adjusted cost as stated above will not apply to short-term capital gain in the case of all assesseees 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 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. 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, 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.

11. For notification on Cost Inflation Index, refer above Table.

(5) The 5th proviso to section 48 provides that deduction will not be allowed in computing 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 sub-item (D) of item 6 on page 152 and item 7 on page 161].

COST OF ACQUISITION AND COST OF IMPROVEMENT
(Sections 49¹², 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 1988. 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, 2007 for Rs. 6,00,000. The cost of the property purchased in April, 1984 was Rs. 1,40,000. **The long-term capital gain for assessment year 2008-09** is to be worked out as under:

Sale price of the property	..	..	..	..	..	..	..	..	..	Rs. 6,00,000
Less: Cost of acquisition: Property purchased in April, 1984	..	..	..	..	..	..	..	..	Rs. 1,40,000	
Less: Earnest money retained	..	..	..	..	..	..	..	..	Rs. 15,000	
									<u>Rs. 1,25,000</u>	

Indexed cost of acquisition [Vide 2nd proviso to section 48]:

Rs. 1,25,000 (and not Rs. 1,40,000) $\times$ 551 ¹³ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) $\div$ 125 ¹³ (being Cost Inflation Index of the financial year of acquisition i.e., 1984-85)	..	..	..	..	..	..	..	..	..	<u>Rs. 5,51,000</u>

Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]	..	..	..	..	..	..	..	..	..	<u>Rs. 49,000</u>

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 1964 and sold the same at Rs. 120 per square yard in December, 2007. 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 2008-09** is to be worked out as under:

Sale price of 10,000 Sq. yds. @ Rs. 120 per Sq. yd.	..	..	..	..	..	..	..	..	Rs. 12,00,000
Less: Cost of acquisition in 1964:									
10,000 Sq. yds. $\times$ 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								<u>Rs. 50,000</u>	
								<u>Rs. 2,00,000</u>	

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] $\times$ 551 ¹³ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) $\div$ 100 ¹³ (being Cost Inflation Index of the financial year 1981-82)..	..	..	..	..	..	..	..	<u>Rs. 11,02,000</u>

Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]	..	..	..	..	..	..	..	<u>Rs. 98,000</u>

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. 171-178 of ITRR 2005-06 (67th Year of Publication).

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

12. For the notes on provisions relating to ‘Demerger of companies’, refer item (C) on page 151.

13. For notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

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 138] 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 in *Example (ii)* on page 145 [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. 140-141 and item 3(d) on page 141]. 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.:

Cost of acquisition of a capital asset being: (1) goodwill of a business; (2) a trade mark or brand name associated with a business; (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, 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)].

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 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, 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):

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 [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 4-7-2007 and closed on 31-7-2007. The date of allotment of right issue was 16-8-2007. The cost of acquisition is to be worked out as under:

(a) Cost of 500 right shares @ Rs. 50 per share [Vide section 55(2)(aa)(iii)]	..	..	..	..	Rs.	<u>25,000</u>
(b) Cost of 1,000 original shares [Vide section 55(2)(aa)(i)]	..	..	..	..	Rs.	<u>20,000</u>
(c) The period of holding of 500 right shares will reckon from 16-8-2007 (i.e., date of allotment) [Vide sub-clause (d) in clause (i) of the <i>Explanation 1</i> to section 2(42A)].						

(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.	<u>Nil</u>
Capital gain	..	..			Rs.	<u>5,000</u>	

The period of holding will be from 4-7-2007 (date of offer of right) to 16-7-2007 (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.	<u>5,000</u>

(b) *Cost of right shares in the hands of renouncee Mr. B will be the aggregate of:*

Price paid by Mr. B 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.	<u>25,000</u>
Cost of 500 right shares of M/s. X & Co. Ltd.	..	..	..	..	..	Rs.	<u>30,000</u>

The period of holding of 500 right shares will reckon from 16-8-2007 (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:

Under section 55(2)(aa)(iiiia), 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 security¹⁴ 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 10-12-2004. He sold the entire lot of 2,000 shares of X & Co. Ltd. on 6-4-2007 and *Securities transaction tax paid on sale of shares is Rs. Nil*. The net sale proceeds received is Rs. 1,80,000. The long-term capital gain for assessment year 2008-09 will be as under:

14. Refer footnote No. 2 on page 137.

CAPITAL GAINS

DEPRECIABLE ASSETS

Net sale proceeds of 2,000 shares of X & Co. Ltd. on 6-4-2007¹⁵ (Securities transaction tax paid is Rs. Nil) Rs. 1,80,000

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	×	551 ¹⁶ (Year of sale)	÷ 150 ¹⁶ (Year of acquisition)	= Rs. 1,65,300	
1,000	10-12-2004	Rs. Nil ¹⁷	×	N.A. ¹⁷		= Rs. Nil ¹⁷	Rs. 1,65,300

Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii)¹⁵ [Refer item 8 on page 161] Rs. 14,700

Notes: (1) If Mr. A had sold only 1,000 bonus shares on the said date for Rs. 90,000, the long-term capital gain will be Rs. 90,000, as the cost of bonus shares is to be taken as 'nil' vide section 55(2)(aa)(iiiia), and the indexed cost also will be 'nil'.

(2) If the bonus shares referred to in note (1) were allotted on 10-12-2006¹⁵ instead of 10-12-2004, then, Rs. 90,000 [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)]. As Securities transaction tax paid is Rs. Nil, provisions of section 111A, charging short-term capital gains at the flat rate of such gains, will not apply.

COST OF ACQUISITION OF SHARES OR DEBENTURES IN A COMPANY RECEIVED ON CONVERSION OF DEBENTURES, ETC:

[Section 49(2A)^{17a}]

Where the shares or debentures in a company, received on conversion of 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 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) & 49(2AB)]

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)(iiiia), for details, refer item (iv) on page 77], 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)].

For assessment year 2001-02 to 2007-08, 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 141.

From assessment year 2008-09 and onwards, where the capital gain arises from the transfer of specified security¹⁸ or sweat equity shares¹⁸, the cost of acquisition of such security or shares will be the fair market value which has been taken into account while computing the value of fringe benefits u/s. 115WC(1)(ba) [Section 49(2AB)]. Also refer item 3(c) on page 141.

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 assets¹⁹ in respect of which depreciation has been allowed [i.e., u/s. 32(1)(ii) & (iia)];

¹⁵.

¹⁶. For notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

¹⁷. The cost of 1,000 bonus shares allotted on 10-12-2004 is to be taken as 'nil' vide section 55(2)(aa)(iiiia). As the cost is to be taken as 'nil', indexed cost also will be 'nil'.

¹⁸. For the definition of 'specified security' & 'sweat equity shares', refer footnote No. 2 & 3 on page 198.

¹⁹. "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)].

- (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—
- expenditure incurred wholly and exclusively in connection with such transfer;
 - the written down value of the block of assets at the beginning of the previous year; and
 - 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**.

Illustration: (1) Mr. Shah has the following depreciable block of assets:

W.D.V. of Plant 'A' & 'B' at the beginning of assessment year 2005-06	..	..	..	..	..	Rs.	84,375
Less: Depreciation @ 25% for assessment year 2005-06 on Rs. 84,375	..	..	..	..	..	Rs.	21,094
W.D.V. at the beginning of assessment year 2006-07	..	..	..	..	..	Rs.	63,281
Less: Depreciation @ 15% for assessment year 2006-07 on Rs. 63,281	..	..	..	..	..	Rs.	9,492
W.D.V. at the beginning of assessment year 2007-08	..	..	..	..	..	Rs.	53,789
Less: Depreciation @ 15% for assessment year 2007-08 on Rs. 53,789	..	..	..	..	..	Rs.	8,068
W.D.V. at the beginning of assessment year 2008-09	..	..	..	..	..	Rs.	45,721
During the financial year ending on 31-3-2008 Mr. Shah:							
(a) acquires on 5-11-2007 new plant 'C' for	..	..	..	..	..	Rs.	3,00,000
(b) sells on 6-11-2007 plant 'A' for	..	..	..	..	..	Rs.	5,00,000
W.D.V. of plants 'A' & 'B' at the beginning of assessment year 2008-09	..	..	..	..	..	Rs.	45,721
Add: Cost of new plant 'C' acquired during the previous year ending on 31-3-2008	..	..	..	..	..	Rs.	3,00,000
						Rs.	3,45,721
Less: Sale consideration of Plant 'A' Rs. 5,00,000. As the sale consideration of Rs. 5,00,000 exceeds Rs. 3,45,721, the amount to be deducted is restricted to	..	..	..	..	..	Rs.	3,45,721
W.D.V. for the financial year ending on 31-3-2008	..					Rs.	²⁰ 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 2008-09	..			Rs.	45,721		
(iii) Actual cost of plant 'C' acquired during the previous year	..	..		Rs.	3,00,000	Rs.	3,55,721
Short-term capital gain	..					Rs.	1,44,279

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 1-4-2007	..					Rs.	15,00,000
(b) Cost of new plant 'D' acquired during the previous year ending on 31-3-2008	..	..	..			Rs.	5,00,000
(c) Plants 'A', 'B', 'C' and 'D' transferred during the previous year ending on 31-3-2008	..	..				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.	²¹ NIL		
(ii) W.D.V. of plants 'A', 'B' & 'C' as on 1-4-2007 [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 143 and Note (2) on page 144].

20. Since the W.D.V. is Rs. nil, the question of claiming depreciation, in respect of this block of assets, for the financial year ending on 31-3-2008 (assessment year 2008-09) would not arise.

21. 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.

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 on pp. 148-149. For the purposes of capital gain on sale of such assets, where the asset is sold at a 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 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 sale²² 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 any capital asset being 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)]. W.e.f. 1-6-2006, Form No. 3CEA is not required to be furnished along with the return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

"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 was taken as the full value of consideration for computing capital gains. There was 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)].

22. "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)].

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 (33) on page 125 and those pertaining to computation of capital gains is given hereunder.

(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 *Explanation 1* to section 2(42A) [For details, refer note (2) on page 138]. 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 141]. 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 145].

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*(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).

*(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 321 of ITRR 2005-06 (67th Year of Publication)] 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].

*(C) CAPITAL GAINS ON COMPENSATION RECEIVED ON
COMPULSORY ACQUISITION OF AGRICULTURAL LAND IN CERTAIN URBAN AREAS:*

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 137]. 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 140].

From assessment year 2005-06 and onwards, in the case of an assessee, being 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) is exempt u/s. 10(37), 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 by the assessee on or after 1-4-2004. “Compensation or consideration” includes compensation or consideration enhanced or further enhanced by any court, tribunal or other authority.

*(D) LONG-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES IN A COMPANY OR
UNITS OF AN EQUITY ORIENTED FUND, ON OR AFTER 1-10-2004:*

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 8 on page 161].

From assessment year 2005-06 and onwards, 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 u/s. 10(38), where the transaction of sale of such equity share or unit is entered into (i.e., through recognised stock exchange) on or after the date on which the Securities Transaction Tax as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004 comes into force i.e., on or after 1-10-2004 [Vide Noti. No. 1058(E), dt. 28-9-2004: 270 ITR (St.) 120] and such transaction is chargeable to securities transaction tax under that Chapter.

However, from assessment year 2007-08 and onwards, the income by way of such long-term capital gain of a company shall be taken into account in computing the book profit u/s. 115JB and for payment of income-tax under the said section [Proviso to section 10(38)].

“Equity oriented fund” means a fund where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% (50%, upto 31-5-2006) 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.

(E) PROFIT ON SALE OF PROPERTY USED FOR RESIDENCE:

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”²³, 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 constructed²⁴ a residential house (new asset) within a period of three years after the date of transfer or sale of 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

23. 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].

24. (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].

with any specified bank or institution as explained in item (N) 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. 6,70,000 on 30-6-2007. The long-term capital gain as a result of transfer for the will be as under:

Sale price of the residential house	..	..	..	..	..	..	..	..	Rs. 6,70,000
Less: Cost of acquisition:									
Purchased in April, 1984 for	..	..	..	..	..	..	Rs. 1,25,000		
Indexed cost of acquisition under 2nd proviso to section 48:									
Rs. 1,25,000 (cost of acquisition) × 551 ²⁵ (Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 125 ²⁵ (Cost Inflation Index of the financial year of acquisition i.e., 1984-85) is	..	..	..	..	..	..		Rs. 5,51,000	
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]	..							Rs. 1,19,000	

- (a) If Mr. A purchases on or after 1-7-2006 but before 30-6-2009²⁶ a residential house (new asset) for Rs. 2,50,000, the long-term capital gain of Rs. 1,19,000 will not be chargeable u/s. 45 for the assessment year 2008-09. But the cost of the new asset purchased shall be taken at Rs. 1,31,000 [Rs. 2,50,000 less Rs. 1,19,000] 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. 2,50,000²⁷ after 30-6-2007 but before 30-6-2010²⁶ then also the long-term capital gain of Rs. 1,19,000 is not chargeable u/s. 45 for the assessment year 2008-09. But the cost of the new asset shall be taken at Rs. 1,31,000 [Rs. 2,50,000 less Rs. 1,19,000] 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. 29,000 [Rs. 1,19,000 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 2008-09. In this case, if the residential house (new asset) is sold *within* 3 years from the date of its purchase or construction, 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* 3 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 143].

(F) TRANSFER OF LAND USED FOR AGRICULTURAL PURPOSES:

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:

- 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
- the cost of the land so purchased equals or exceeds the amount of capital gain.

25. For notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

26. If the amount of capital gain is not appropriated or utilised for acquisition of residential house (new asset) before the due date of furnishing return of income for the assessment year 2008-09, 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 (N) on page 158.

27. Refer footnote No. 24 on facing page.

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 (N) on page 158.

(G) *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 to tax 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 (N) on page 158.

(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 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 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^{28/29} 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'. The investment made on or after 1-4-2007 in the long-term specified asset by an assessee during any financial year should not exceed Rs. 50,00,000 [Proviso to section 54EC(1)].

"Long-term specified asset" is defined to mean any bond redeemable after three years, issued,—

- (a) on or after 1-4-2007, by the National Highways Authority of India or by the Rural Electrification Corporation Ltd. It may be noted that limit of investment in these bonds is Rs. 50,00,000 [Vide proviso to section 54EC(1)],

28. 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].

29. Limitation of 6 months for making investment u/s. 54EC of capital gains arising from the transfer of a long-term capital asset is extended: (i) upto 30-9-2006, where the long-term capital asset was transferred between 29-9-2005 & 31-12-2005; (ii) upto 31-12-2006, where the long-term capital asset was transferred between 1-1-2006 & 30-6-2006 [Vide F No. 142/09/2006-TPL, dt. 30-6-2006 : 284 ITR (St.)11].

(b) on or after 1-4-2006 but before 1-4-2007, by the National Highways Authority of India or by the Rural Electrification Corporation Ltd., and such bonds are notified by the Central Government for the purposes of section 54EC with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond). Proviso to clause (b) of the *Explanation* to section 54EC validates the Notification No. S.O. 2146(E), dt. 22-12-2006: 288 ITR (St.) 6, with the conditions specified therein, including the ceiling limit of Rs. 50,00,000,

(c) on or after 1-4-2002 but before 1-4-2006, by the National Bank for Agricultural and Rural Development or by the National Highways Authority of India, or by the Rural Electrification Corporation Ltd., or by the National Housing Bank or by the Small Industries Development Bank of India [*Explanation* to section 54EC];

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) $\times$ Rs. 50,000 (investment in long-term specified asset) $\div$ Rs. 60,000 (capital gain) = Rs. 50,000]. The balance long-term capital gain 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.

Where the cost of long-term specified asset is also eligible,—

(a) for rebate of income-tax u/s. 88, the said rebate will not be allowed in relation to assessment year 2005-06 and earlier years, if the exemption is availed u/s. 54EC;

(b) for deduction from income u/s. 80C, the said deduction will not be allowed in relation to assessment year 2006-07 and subsequent years, if the exemption is availed u/s. 54EC [Section 54EC(3)].

‘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)

W.e.f. 1-4-2002, section 54ED provides that, where the capital gain arises from the transfer before 1-4-2006 (and not on or after 1-4-2006) 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 but before 1-4-2006 (and not on or after 1-4-2006) 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; 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.

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,—

(a) for rebate of income-tax u/s. 88, the said rebate will not be allowed in relation to assessment year 2005-06 and earlier years, if the exemption is availed u/s. 54ED(1);

(b) for deduction from income u/s. 80C, the said deduction will not be allowed in relation to assessment year 2006-07 and subsequent years, if the exemption is availed u/s. 54ED(1) [Section 54ED(3)].

(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 constructs³⁰ 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 (N) on page 158.
- (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 land (or any asset other than a residential house, bonds or debentures) on 6-6-2007 for a consideration of Rs. 9,37,000. The land was purchased on 1-6-1987 for Rs. 1,50,000. On 6-6-2007 he was owning residential house ('RH-I').

- (1) Net consideration on sale of land is Rs. 9,17,000 [Rs. 9,37,000 less Rs. 20,000 (expenses incurred exclusively on transfer)].
- (2) Capital gain on sale is Rs. 3,66,000 [Rs. 9,17,000 (net consideration) less Rs. 5,51,000 (indexed cost of acquisition³¹)].

30. Refer footnote No. 24 on page 152.

31. Indexed cost of acquisition is arrived at as under:

Rs. 1,50,000 (Cost of acquisition) × 551 [being Cost Inflation Index of the financial year of sale i.e., 2007-08 (refer Notification on pp. 143-144)] ÷ 150 [being Cost Inflation Index of the financial year of acquisition i.e., 1987-88 (refer Notification on pp. 143-144)] = Rs. 5,51,000.

- (a) Mr. A purchases for Rs. 9,25,000 a residential house ('RH-II') after 6-6-2006 but before 6-6-2009³². The whole long-term capital gain of Rs. 3,66,000 will be exempt, provided Mr. A does not purchase residential house [other than 'RH-I' & 'RH-II'] before 6-6-2009 or Mr. A does not construct residential house [other than 'RH-I' & 'RH-II'] before 6-6-2010.
- (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. 4,58,500, only proportionate capital gain will be exempt as under:

Capital gain on net consideration of Rs. 9,17,000 [Refer (2) on page 156] Rs. 3,66,000
 Less: Exemption under section 54F:

Capital gain		Investment in residential house		Net consideration	
Rs. 3,66,000	×	Rs. 4,58,500	÷	Rs. 9,17,000	Rs. 1,83,000
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]					Rs. 1,83,000

- (c) If Mr. A purchases yet another residential house ['RH-III'] before 6-6-2009 or constructs one before 6-6-2010, then the long-term capital gain of Rs. 3,66,000 or Rs. 1,83,000, 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 ['RH-III'] is purchased or constructed.
- (d) If Mr. A transfers the residential house 'RH-II' (new asset) [say, purchased or constructed on 3-5-2008] before 3-5-2011, say on 1-11-2009, then the long-term capital gain of Rs. 3,66,000 or Rs. 1,83,000, as the case may be, which was exempted earlier will be deemed to be long-term capital gain of assessment year 2010-11 [that is, in the year of sale of the new asset ('RH-II')].

EXAMPLE: (v)

1.	Mr. A sells land on 3-9-2007 for net consideration of	Rs. 6,40,000
[on 3-9-2007, he was owning one residential house ('RH-I')]		
2.	Mr. A had purchased the land in April, 1981 for	Rs. 1,00,000
3.	Long-term capital gain accrued on 3-9-2007 (Rs. 6,40,000 less Rs. 5,51,000 ³³)	Rs. 89,000
4.	Mr. A purchases residential house ('RH-II') on 3-12-2007 for.. .. .	Rs. 4,80,000
Long-term capital gain in respect of transfer of land (Refer 3)		Rs. 89,000
Less: Exemption u/s. 54F for purchase of residential house ('RH-II') (Refer 4):		
Purchase of residential house ('RH-II') Rs. 4,80,000 × capital gain		
Rs. 89,000 ÷ Net consideration Rs. 6,40,000		Rs. 66,750
Long-term capital gain chargeable to tax u/s. 112(1)(a)(ii) [Refer item 8 on page 161]		Rs. 22,250

(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 area³⁴ 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 (N) on page 158.

(L) CAPITAL GAINS ON SHIFTING OF INDUSTRIAL UNDERTAKING FROM
URBAN AREA TO ANY SPECIAL ECONOMIC ZONE:

(Section 54GA)

W.e.f. 10-2-2006 vide Notification No. S.O. 196(E), dt. 10-2-2006: 281 ITR (St.) 2 (i.e., from assessment year 2006-07 and onwards), section 54GA provides that any capital gain, whether short-term or long-term, arising on transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking shifting from an urban area to any Special Economic

32. 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 2008-09, 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 (N) on page 158.

33. Indexed cost of acquisition is arrived at as under:

Rs. 1,00,000 (cost of acquisition) × 551 [being Cost Inflation Index of the financial year of sale i.e., 2007-08 (refer Notification on pp. 143-144)] ÷ 100 [being Cost Inflation Index of the financial year of acquisition i.e., 1981-82 (refer Notification on pp. 143-144)] = Rs. 5,51,000.

34. 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] & (4) in the State of Karnataka & Goa, refer Notification No. S.O. 619(E) dt. 27-4-2006 [283 ITR (St.) 1].

Zone³⁵, whether developed in any urban area or any other area, is exempt to the extent such gain is utilised, within a period of 1 year before or 3 years after the date of transfer, for the purchase of machinery or plant or acquiring land or building or constructing building or shifting the original asset and transferring the establishment of such undertaking or for the expenses incurred on such other purposes as may be specified in a scheme to be framed by the Central Government. Such cost and expenses hereafter referred to as the 'new asset'.

In a case where the amount of capital gain exceeds the cost of the 'new asset', the excess will be chargeable as capital gain u/s. 45. However, where such 'new asset' is sold within a period of 3 years of its purchase, etc., its cost will be taken to be 'nil' and the entire amount received as a result of sale will be treated as capital gain.

In a case where the amount of capital gain is less than or equal to the cost of the 'new asset', such capital gain will not be chargeable u/s. 45. However, where such 'new asset' is sold within a period of 3 years from the date of its purchase, etc., the cost of the 'new asset' is to be reduced by the amount of capital gain which had been exempted from tax.

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 gain has to be deposited in the deposit scheme as may be notified by the Central Government and such return shall be accompanied by proof of such deposit. W.e.f. 1-6-2006, proof of such deposit is not to be furnished with return of income but on demand to be produced before the Assessing Officer [Vide sections 139C & 139D].

*(M) 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 140]. Section 54H provides for extension of time for acquiring new asset or making investment prescribed under sections 54, 54B, 54D, 54EC & 54F in such cases. The various time limits will be reckoned from the date of receipt of compensation.

(N) SCHEME FOR DEPOSITS TO AVAIL EXEMPTION FROM CAPITAL GAINS:

For availing exemption under sections 54, 54B, 54D, 54F or 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 [w.e.f. 1-6-2006, proof of such deposit is not to be furnished with return of income but on demand to be produced before the Assessing Officer (Vide sections 139C & 139D)]. 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 or 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.

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].

35. "Special Economic Zone" means each Special Economic Zone notified under the proviso to section 3(4) and section 4(1) (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone [Vide *Explanation* to section 54GA read with section 2(za) of the Special Economic Zones Act, 2005].

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 H³⁶ [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. 13,50,000 on 1-3-2008 which he had purchased in April, 1981 for Rs. 2,00,000. Upto 2-7-2008, he spent Rs. 1,00,000 on the construction³⁷ of a new residential house which could not be completed before 31-7-2008 being the due date for filing return of income for the assessment year 2008-09 in his case. On 16-7-2008, he deposited Rs. 70,000 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 1-3-2008:

Sale proceeds of a residential house	..	..	..	..	Rs. 13,50,000	
Less: Cost of acquisition	..	..	..	..	<u>Rs. 2,00,000</u>	
Indexed cost of acquisition:						
Rs. 2,00,000 (cost of acquisition) × 551 ³⁸ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100 ³⁸ (being Cost Inflation Index of the financial year of acquisition i.e., 1981-82) i.e., Rs. 2,00,000 × 551 ÷ 100						
					<u>Rs. 11,02,000</u>	Rs. 2,48,000
Less: Exemption under section 54:						
(1) Amount spent on construction upto 2-7-2008	..	..	..	..	Rs. 1,00,000	
(2) Amount deposited in specified bank under the scheme on 16-7-2008 ³⁹					<u>Rs. 70,000</u>	<u>Rs. 1,70,000</u>
Long-term capital gain chargeable to tax u/s.112(1)(a)(ii) [Refer item 8 on page 161]					..	<u>Rs. 78,000</u>

If, Mr. A had deposited Rs. 1,48,000 instead of Rs. 70,000, the long-term capital gain would have been 'nil' as explained hereunder:

Long-term capital gains on sale of a residential house on 1-3-2008	..	..	..	..	..	Rs. 2,48,000
Less: Exemption under section 54:						
(1) Amount spent on construction upto 2-7-2008	..	..	..	..	Rs. 1,00,000	
(2) Amount deposited in specified bank under the scheme on 16-7-2008 ³⁹	..				<u>Rs. 1,48,000</u>	<u>Rs. 2,48,000</u>
Long-term capital gains chargeable to income-tax	..	..	..	..	..	<u>Rs. Nil</u>

(O) 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).

36. For clarifications issued by the Board vide its Circular No. 743, dt. 6-5-96, refer sub-item F of item G.2 on page 337.

37. Refer footnote No. 24(a) on page 152.

38. For the Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

39. The return of income for the assessment year 2008-09 shall not be accompanied by the proof of such deposit. Proof of deposit is to be produced before the Assessing Officer on demand [Vide sections 139C & 139D].

(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-O⁴⁰, 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' (VCC) or 'venture capital fund' (VCF) *from investment*⁴¹ in a 'venture capital undertaking' (VCU) is exempt subject to conditions that such VCC/VCF 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 VCF is also to be registered under the Registration Act, 1908. VCF is defined to mean also to include a fund operating as a venture capital scheme made by the Unit Trust of India. From assessment year 2008-09 and onwards⁴², VCU is defined to mean such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the: (a) business of nanotechnology, information technology relating to hardware & software development, seed research & development, bio-technology, research and development of new chemical entities in the pharmaceutical sector, production of bio-fuels, building and operating composite hotel-cum-convention centre with seating capacity of more than 3,000, developing or operating and maintaining or developing, operating and maintaining any infrastructure facility as defined in the *Explanation* to section 80-IA(4)(i); or (b) dairy or poultry industry.

Chapter XII-F (section 115U) provides that any income received by a person out of investments made in a VCC or a 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 VCU. The person responsible for making payment of the income on behalf of VCC or 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-F. 'VCC', 'VCF' and 'VCU' shall have the meaning respectively assigned to them in section 10(23FB).

(P) 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)]

In respect of investments made on or after 1-6-1998:

Assessment year 2005-06 & 2006-07:

Section 10(23G) provides for granting exemption from tax on income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from investments made on or after 1-6-1998 by way of shares or long-term finance in any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(4) or section 80-IAB(3), or a housing project referred to in section 80-IB(10), or a hotel project or a hospital project, 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.

Income as stated above of an infrastructure capital company shall be taken into account in computing book profit and income-tax payable u/s. 115JB [Proviso to section 10(23G)].

For the definition of 'infrastructure capital fund', 'infrastructure capital company', 'long-term finance', 'co-operative bank', 'interest', 'hotel project' and 'hospital project', refer *Explanation 1* to section 10(23G).

40. In relation to assessment year 2003-04, for the words "dividends, other than dividends referred to in section 115-O," read "dividends".

41. Upto assessment year 2007-08, for the words in italics 'from investment', read 'set up to raise funds for investment'.

42. VCU is defined: (a) w.e.f. 1-10-2004 to assessment year 2007-08, to mean a VCU 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 by the Board for the purposes of section 10(23FB); and (b) upto 30-9-2004, 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) clarifies that the income of a VCC or VCF shall continue to be exempt even if the shares of the VCU in which the VCC or VCF has made the initial investment, are subsequently listed in a recognised stock exchange in India. *Explanation 2* to section 10(23FB) has been omitted w.e.f. 1-10-2004 in view of revised definition of VCU from the said date.

In view of omission of section 10(23G) w.e.f. 1-4-2007, the exemption will not be available in respect of the said incomes in relation to assessment year 2007-08 and subsequent years.

(Q) INCOME FROM GLOBAL DEPOSITORY RECEIPTS CHARGEABLE TO TAX AT LOWER RATE:

[Section 115ACA]

Assessment year 2005-06 and onwards:

Section 115ACA provides that any income by way of dividends, other than dividends referred to in section 115-O 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 subsidiary⁴³, engaged in specified knowledge based industry or service⁴⁴, issued in accordance with notified Employees' Stock Option Scheme⁴⁵, 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.

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. Flat rate of income-tax on short-term capital gains on transfer of equity shares in a company or units of an equity oriented fund, on or after 1-10-2004:

[Section 111A^{45a}]

Upto assessment year 2004-05, 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 applicable scheduled rates.

From assessment year 2005-06 and onwards, 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 (i.e., through recognised stock exchange) on or after the date on which the Securities Transaction Tax as provided in Chapter VII [Sections 96 to 115] of the Finance (No. 2) Act, 2004 comes into force i.e., on or after 1-10-2004 [Vide Noti. No. 1058(E), dt. 28-9-2004: 270 ITR (St.) 120] & such transaction is chargeable to securities transaction tax⁴⁶ under that Chapter, such short-term capital gains will be taxed at the flat rate of 10%^{45a} 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 applicable scheduled rates. The aggregate of income-tax is to be increased by S.C. on I.T., if any, and addl. S.C. on I.T. & S.C.

In the case of individual or a HUF, being a resident, where the total (taxable) income as reduced by such short-term capital gains, is below the exemption limit, such short-term capital gains will be reduced to the extent of short-fall and the balance of said short-term capital gains will be subject to flat rate of income-tax @ 10%^{45a} [Refer *Example* (ix) on page 164 for the manner and method of arriving at short-fall]. The deductions under Chapter VI-A will be on gross total income as reduced by said short-term capital gains [Section 111A(2)]. The tax rebate⁴⁷ u/s. 88 [and not u/s. 88B/88C/88D/88E] 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 sub-item (D) of item 6 on page 152.

8. Tax on long-term capital gains:

[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 capital gain will be subjected to flat rate of income-tax under section 112. In the case of all categories of assessee, in relation to assessment years 2005-06 to 2009-10, the flat rate of income-tax is 20%⁴⁸ *plus* surcharge on I.T. &

43. "Subsidiary" means subsidiary as defined in section 4 of the Companies Act, 1956 and includes subsidiary incorporated outside India.

44. "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.

45. 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].

45a. For the notes on amendment of section 111A(1)(i) by the Finance Act, 2008, refer para 4.3 on page 39.

46. Deduction will not be allowed in computing income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax [5th proviso to section 48].

47. Rebate u/s. 88, 88B, 88C & 88D is not available for and from assessment year 2006-07 and onwards as said sections have been omitted w.e.f. 1-4-2006.

48. 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 and further increased by an addl. S.C. on I.T. & S.C.

addl. S.C. on I.T. & S.C.⁴⁹, 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 or unit or from assessment year 2006-07 & onwards, zero coupon bond 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 or unit or zero coupon bond, 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 or unit or zero coupon bond 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 and further increased by an additional S.C. on I.T. & S.C. [Refer *Example (vii)* hereafter].

“Listed securities” means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956⁵⁰; 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 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 rebate⁵¹ u/s. 88 [and not u/s. 88B/88C/88D/88E] will be on total (taxable) income as reduced by long-term capital gain. In other words, tax rebate u/s. 88⁵¹ 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. 88B⁵¹, women assessee below age of 65 years who are eligible for rebate of income tax u/s. 88C⁵¹ and an assessee who is entitled to rebate u/s. 88D⁵¹ & 88E, such tax rebate u/s. 88B/88C/88D/88E 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. 88⁵¹ and not to tax rebate allowable u/s. 88B/88C/88D/88E⁵¹.

EXAMPLE (vii): Mr. A has sold units, not being unit of an equity oriented fund, of a mutual fund for Rs. 1,00,000 on 11-6-2007. The cost of acquisition of such units purchased on 9-4-2002 is Rs. 44,700. Income from other sources of Mr. A is Rs. 12,00,000. The tax on long-term capital gain payable u/s. 112(1) by Mr. A for assessment year 2008-09 will be as under:

	COMPUTATION OF INCOME-TAX: u/s. 112(1)(a)(ii)		under proviso to section 112(1)	
Sale proceeds of units, not being unit of an equity oriented fund (sold on 11-6-2007)	Rs.	1,00,000	Rs.	1,00,000
Less: Cost of acquisition of shares purchased on 9-4-2002	Rs.	44,700	Rs.	44,700
Indexed cost of acquisition under 2nd proviso to section 48 : Rs. 44,700 (cost of acquisition) × 551 ⁵² (CII of F.Y. of sale i.e., 2007-08) ÷ 447 ⁵² (CII of financial year of purchase i.e., 2002-03)	Rs.	55,100		—
Long-term capital gains chargeable to income-tax	Rs.	44,900	Rs.	55,300
Flat rate of I.T. @ 20% on Rs. 44,900 u/s. 112(1)(a)(ii) (A)	Rs.	8,980		
Flat rate of I.T. @ 10% on Rs. 55,300 under proviso to section 112(1) (B)			Rs.	5,530

49. 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. I.T. & S.C. is to be further increased by an addl. S.C. on I.T. & S.C.

50. 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.

51. Refer footnote No. 47 on page 161.

52. For the Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

COMPUTATION OF INCOME-TAX:
u/s. 112(1)(a)(ii) under proviso to
section 112(1)

As the income-tax on long-term capital gains computed u/s. 112(1)(a)(ii) Rs. 8,980 [Refer (A)] exceeds Rs. 5,530 [Refer (B)] being income-tax on long-term capital gains computed under proviso to section 112(1), excess of Rs. 3,450 is to be ignored and the income-tax payable on long-term capital gains is	Rs.	5,530
Add: As the total income exceeds Rs. 10,00,000, surcharge @ 10% on income-tax Rs. 5,530 [vide Paragraph A of Part I of the First Schedule to the Finance Act, 2008 read with 1st proviso to section 2(3) of the said Act] i.e., 10% on Rs. 5,530	Rs.	553
Add: Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% + 1% on I.T. & S.C. Rs. 6,083 (i.e., Rs. 5,530 plus Rs. 553)	Rs.	182
Tax payable on long-term capital gains u/s. 112(1)	Rs.	6,265

- Notes: 1. If in the above example, if the said units had been purchased on 9-4-1995 instead of on 9-4-2002, the indexed cost of acquisition will be Rs. 87,650 (i.e., Rs. 44,700 $\times$ 551⁵³ $\div$ 281⁵³) and long-term capital gains will be Rs. 12,350 (Rs. 1,00,000 less Rs. 87,650). Flat rate of income-tax @ 20% u/s. 112(1)(a)(ii) on Rs. 12,350 is Rs. 2,470. As Rs. 2,470 does not exceed Rs. 5,530 [being 10% on long-term capital gains Rs. 55,300 (as worked out on page 162)], income-tax payable is Rs. 2,470 which is to be increased by surcharge Rs. 247 (being 10% of Rs. 2,470 I.T.) & addl. S.C. Rs. 82 [being addl. S.C. @ 3% on I.T. & S.C. Rs. 2,717 (Rs. 2,470 + Rs. 247)] and tax payable is Rs. 2,799 (Rs. 2,470 + Rs. 247 + Rs. 82).
2. If equity shares or units, being unit of an equity oriented fund, of a mutual fund, had been sold through recognised stock exchange and securities transaction tax had been paid at the time of sale, the long-term capital gains would be exempt u/s. 10(38) [For details, refer sub-item (D) of item 6 on page 152].

EXAMPLE (viii): For assessment year 2008-09, gross total income of Mr. A, who is aged 45 years, is Rs. 2,79,000 which includes long-term capital gain on sale of land Rs. 85,000, short-term capital gain on sale of bonds Rs. 10,000 and interest income on fixed deposits with banks Rs. 5,000. Medical insurance premia paid is Rs. 9,000. He has invested Rs. 70,000 in specified savings which qualifies for deduction from gross total income u/s. 80C. The computation of taxable income and tax thereon is as under:

Computation of taxable income:

Gross total income inclusive of capital gains	Rs.	2,79,000
Less: Long-term (and not short-term) capital gain on sale of land [chargeable to income-tax u/s. 112]	Rs.	85,000
Gross total income as reduced by long-term capital gain	Rs.	1,94,000
Less: Deductions under Chapter VI-A:		
(a) Investment in specified savings Rs. 70,000: Deduction u/s. 80C: As the specified savings does not exceed Rs. 1,00,000, 100% of Rs. 70,000	Rs.	70,000
(b) Medical insurance premia paid Rs. 9,000: Deduction u/s. 80D: As the premia does not exceed Rs. 15,000, 100% of the premia paid Rs. 9,000	Rs.	9,000
(c) Interest income on fixed deposits with banks Rs. 5,000: Deduction u/s. 80L is not available as the said section is omitted w.e.f. 1-4-2006 (assessment year 2006-07 & onwards)	Rs.	Nil
Total (taxable) income (other than long-term capital gain) (1)	Rs.	1,15,000
Add: Long-term capital gain on sale of land (2)	Rs.	85,000
Total (taxable) income inclusive of long-term capital gain (3)	Rs.	2,00,000

Computation of tax:

(A) Income-tax payable on total (taxable) income [other than long-term capital gain] Rs. 1,15,000 [Refer (1)]	Rs.	500
(B) Income-tax @ 20% u/s. 112 on Rs. 85,000 [Refer (2)]	Rs.	17,000
Income-tax payable on total (taxable) income Rs. 2,00,000 ⁵⁴ [Refer (3)]	Rs.	17,500
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 17,500 [Vide section 2(11)/(12) of the Finance Act, 2008]	Rs.	525
I.T. & Addl. S.C. payable on total (taxable) income Rs. 2,00,000 [Refer (3)]	Rs.	18,025
Rounded off tax payable [Vide section 288B]	Rs.	18,030

Note: Deduction under Chapter VI-A will be on gross total income as reduced by long-term capital gain [Section 112(2)].

53. For the Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

54. As the total (taxable) income does not exceed Rs. 10,00,000, surcharge on income-tax payable is Rs. 'Nil'.

CAPITAL GAINS
TAX ON LONG-TERM

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I. In the *Example (viii)* on page 163, if Mr. A, resident in India, had attained age of 65 years on or before 31-3-2008, then the tax payable by him will be as under:

(1) Income-tax payable on total (taxable) income [other than long-term capital gain] Rs. 1,15,000 [Refer (1) on page 163]	Rs.	Nil
(2) Long-term capital gain [Refer (2) on page 163]	Rs.	85,000
Less: Short-fall [Rs. 1,95,000 (basic exemption limit) less Rs. 1,15,000 (other income)]	Rs.	80,000
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
Income-tax payable on total (taxable) income Rs. 2,00,000 ⁵⁵ [Refer (3) on page 163]	Rs.	1,000
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 1,000 [Vide section 2(11)/(12) of the Finance Act, 2008]	Rs.	30
I.T. & Addl. S.C. payable on total (taxable) income Rs. 2,00,000 [Refer (3) on page 163]	Rs.	1,030

II. In the *Example (viii)* on page 163, if the total income had been of a woman assessee, resident in India, who is below the age of 65 years as on 31-3-2008, then the tax payable by her will be as under:

(1) Income-tax payable on total (taxable) income [other than long-term capital gain] Rs. 1,15,000 [Refer (1) on page 163]	Rs.	NIL
(2) Long-term capital gain [Refer (2) on page 163]	Rs.	85,000
Less: Short-fall [Rs. 1,45,000 (basic exemption limit) less Rs. 1,15,000 (other income)]	Rs.	30,000
Long-term capital gain chargeable to income-tax [Vide proviso to section 112(1)(a)]	Rs.	55,000
Income-tax on long-term capital gain Rs. 55,000 @ 20% u/s. 112(1)(a)(ii)	Rs.	11,000
Income-tax payable on total (taxable) income Rs. 2,00,000 ⁵⁵ [Refer (3) on page 163]	Rs.	11,000
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 11,000 [Vide section 2(11)/(12) of the Finance Act, 2008]	Rs.	330
I.T. & Addl. S.C. payable on total (taxable) income Rs. 2,00,000 [Refer (3) on page 163]	Rs.	11,330

EXAMPLE (ix): For assessment year 2008-09, total income of Mr. A, who is aged 45 years, is Rs. 1,15,000 which includes long-term capital gain on sale of land Rs. 15,000.

Total income [inclusive of long-term capital gain Rs. 15,000] of Mr. A (aged 45 years)	Rs.	1,15,000
Less: Long-term capital gain on sale of land	Rs.	15,000
Total income as reduced by long-term capital gain	Rs.	1,00,000
Basic exemption limit for assessment year 2008-09	Rs.	1,10,000
Long-term capital gain	Rs.	15,000
Less: Short fall [Rs. 1,10,000 (basic exemption limit) less Rs. 1,00,000 (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 ⁵⁵ @ 20% u/s. 112(1)(a)(ii)	Rs.	1,000
Add: Additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) @ 2% plus 1% on I.T. Rs. 1,000 [Vide section 2(11)/(12) of the Finance Act, 2008]	Rs.	30
I.T. & Addl. S.C. payable by Mr. A (aged 45 years) on total (taxable) income Rs. 1,15,000	Rs.	1,030

Note: In this *Example*, if the total income of Mr. A consisted only of long-term capital gain of Rs. 1,15,000, then also only Rs. 5,000 will be subjected to income-tax at the flat rate of 20%, after allowing basic exemption of Rs. 1,10,000.

55. As the total (taxable) income does not exceed Rs. 10,00,000, surcharge on income-tax payable is Rs. '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. 171-178 of ITRR 2005-06 (67th Year of Publication);
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 2005-06 & 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: Mr. A sold the following limited companies' shares on 19th April, 2007. His total income excluding long-term capital gain is Rs. 2,00,000. *The said shares are not sold through a recognised stock exchange and no securities transaction tax is paid thereon.*

Name of the Co.	Purchased on	Cost price	Fair market value as on 1-4-1981	Sale price received on 19th April, 2007	Difference between cost price & sale price
A & Co. Ltd.	 30-12-70	Rs. 30,000	Rs. 50,000	Rs. 3,00,000	Rs. 2,70,000
B & Co. Ltd.	 12-11-72	Rs. 10,000	Rs. 20,000	Rs. 1,15,000	Rs. 1,05,000
C & Co. Ltd.	 16-5-90	Rs. 18,200	Rs. 25,000	Rs. 60,000	Rs. 41,800
Total	.. ..	Rs. 58,200		Rs. 4,75,000	Rs. 4,16,800

In the above example "Capital gains" is to be computed as under:

Name of the Co.	Sale proceeds 1	Cost of shares 2	Fair 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. 3,00,000	—	Rs. 50,000 ³	Rs. 2,75,500 ⁴	Rs. 24,500
B & Co. Ltd.	Rs. 1,15,000	—	Rs. 20,000 ³	Rs. 1,10,200 ⁵	Rs. 4,800
C & Co. Ltd.	Rs. 60,000	Rs. 18,200 ⁶	—	Rs. 55,100 ⁷	Rs. 4,900
Total	Rs. 4,75,000			Rs. 4,40,800	Rs. 34,200

Income-tax @ flat rate of tax @ 20% on long-term capital gains of Rs. 34,200 u/s. 112(1)(a)(ii) Rs. 6,840

Add: Additional surcharge @ 3% on I.T. Rs. 6,840 [vide section 2(11)/(12) of the Finance Act, 2008] .. Rs. 205

I.T. & Addl. S.C. payable on long-term capital gains Rs. 34,200 u/s. 112(1)(a)(ii) Rs. 7,045

Notes: (1) It is assumed that none of the above companies have issued either bonus shares or right shares from 1-4-1981 to 19-4-2007.

(2) **If the shares of public limited companies had been sold through recognised stock exchange and securities transaction tax had been paid thereon at the time of sale, such long-term capital gains would be exempt u/s. 10(38) [For details, refer sub-item (D) of item 6 on page 152].**

(3) As the income-tax payable u/s. 112(1)(a)(ii) Rs. 6,840 does not exceed Rs. 38,680 under proviso to section 112(1)[i.e., @ 10% of Rs. 3,86,800 (Rs. 4,75,000 sales proceeds less Rs. 88,200 (Rs. 50,000 FMV + Rs. 20,000 FMV + Rs. 18,200 cost))], provisions of the said proviso will not apply.

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 278.

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. 2,75,500 [Rs. 50,000 (FMV) x 551⁸ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100⁸ (being Cost Inflation Index of the financial year 1981-82)].

5. Indexed cost of acquisition is Rs. 1,10,200 [Rs. 20,000 (FMV) x 551⁸ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100⁸ (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 fair market value as on 1-4-1981.

7. Indexed cost of acquisition is Rs. 55,100 [Rs. 18,200 (cost of acquisition) x 551⁸ (being Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 182⁸ (being Cost Inflation Index of the financial year of acquisition i.e., 1990-91)].

8. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

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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 31-5-2007 @ Rs. 1,000 per share. *The said shares are not sold through a recognised stock exchange and no securities transaction tax is paid thereon*⁹. Fair market value (FMV) as on 1-4-1981 is Rs. 300 per share.

Total sale price of 300 shares @ Rs. 1,000 per share	..	..	..	..	..	..	..	..	..	Rs. 3,00,000
Less: Cost price of 300 shares	..	..	..	..	..	..	..	..	..	Rs. 35,000
Profit on sale of 300 shares	..	..	..	..	..	..	..	..	..	Rs. 2,65,000
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. 1,000 per share	..	..	..	..	..	..	..	..	..	Rs. 3,00,000
Less: Indexed cost of acquisition as computed hereafter	..	..	..	..	..	..	..	..	..	Rs. 2,75,500
Long-term capital gains	..	..	..	..	..	..	..	..	..	Rs. 24,500

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. 24,500 u/s. 112(1)(a)(ii)	..	..	Rs. 4,900
Add: Additional surcharge @ 3% on I.T. Rs. 4,900 [Vide section 2(11)/(12) of the Finance Act, 2008]	..	Rs. 147	
I.T. & Addl. S.C. payable on long-term capital gains Rs. 24,500 u/s. 112(1)(a)(ii)	..	..	Rs. 5,047

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 ¹⁰				Indexed cost
100	30-6-1970	Rs. 35,000	Refer ¹¹	×	551 ¹⁰ (year of sale)	÷	100 ¹⁰ (as on 1-4-1981)	=	Rs. 1,92,850
50	30-9-1978	Rs. Nil ¹²	Rs. 15,000 ¹³	×	551 ¹⁰ (year of sale)	÷	100 ¹⁰ (as on 1-4-1981)	=	Rs. 82,650
150	1-12-1987	Rs. Nil ¹²	Rs. Nil ¹⁴	×	N.A. ¹⁴			=	Rs. ¹⁴ Nil
300	Indexed cost of acquisition of 300 shares.. ..								Rs. 2,75,500

9. If shares of public limited company had been sold through recognised stock exchange and securities transaction tax had been paid thereon at the time of sale, such long-term capital gains would be exempt u/s. 10(38) [For details, refer sub-item (D) of item 6 on page 152].

10. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

11. 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.

12. Cost of acquisition of bonus shares is to be taken as 'nil' vide section 55(2)(aa)(iiiia).

13. 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.

14. 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)(iiiia), indexed cost also will be 'nil'.

Note: In *Example*, (i) on facing page, instead of 300 shares, if on 31-5-2007 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. 1,000 per share	..	..	..	..	..	Rs. 1,00,000
Less: Indexed cost of acquisition as worked out on facing page	..	..	..	..	..	Rs. 1,92,850
Long-term capital loss	..	..	..	..	..	Rs. 92,850

This long-term capital loss can be set off only against current year's long-term capital gain in respect of other capital asset [Section 70(3)]. Unabsorbed loss can be carried forward for set off for eight succeeding assessment years [Section 74(2)].

RIGHT SHARES¹⁵

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 4-6-2007 @ Rs. 1,430 per share
*The said shares are not sold through a recognised stock exchange and no securities transaction tax is paid thereon*¹⁶ Rs. 14,30,000

- (4) Mr. A's total income excluding long-term capital gain is Rs. 11,00,000

Sale proceeds of 1,000 shares @ Rs. 1,430 per share Rs. 14,30,000

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 ¹⁷	Indexed cost
500	1-3-1978	Rs. 1,00,000	Rs. 1,25,000 ¹⁸	551 ¹⁷ ÷ 100 ¹⁷ (year of sale) (as on 1-4-1981)	Rs. 6,88,750
500	1-2-1980	Rs. 50,000	Rs. 1,25,000 ¹⁸	551 ¹⁷ ÷ 100 ¹⁷ (year of sale) (as on 1-4-1981)	Rs. 6,88,750
					Rs. 13,77,500

Long-term capital gain Rs. 52,500

Income-tax @ flat rate of tax @ 20% on long-term capital gain of Rs. 52,500 u/s. 112(1)(a)(ii) .. Rs. 10,500

Add: As the total income exceeds Rs. 10,00,000, surcharge @ 10% of I.T. Rs. 10,500 [Vide Paragraph A of Part I of the First Schedule to the Finance Act, 2008 read with 1st proviso to section 2(3) of the said Act] Rs. 1,050

Add: Additional surcharge @ 3% on Rs. 11,550 (Rs. 10,500 I.T. + Rs. 1,050 S.C.) [Vide section 2(11)/(12) of the Finance Act, 2008] Rs. 347

Tax payable on long-term capital gains Rs. 52,500 u/s. 112(1)(a)(ii) Rs. 11,897

15. For determining the cost of right shares and computation of capital gain where the right shares are renounced, refer illustration on page 147.

16. If shares of public limited company had been sold through recognised stock exchange and securities transaction tax had been paid thereon at the time of sale, such long-term capital gains would be exempt u/s. 10(38) [For details, refer sub-item (D) of item 6 on page 152].

17. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

18. 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.

1. INCOME FROM OTHER SOURCES

[From assessment year 2005-06 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 ON OR AFTER 1-4-2003 :

Any income by way of dividends referred to in section 115-O¹ which is declared, distributed or paid, by a domestic company on or after 1-4-2003, is exempt u/s. 10(34) and not liable to tax in the case of all categories of assessee in relation to 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, Chapter XII-D (sections 115-O to 115-Q) provides for levy of additional income-tax (i.e., tax on distributed profits) @ 15% [12½%, upto 31-3-2007] 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)¹]. Additional income-tax is to be increased by surcharge on such additional income-tax, if any. From 1-4-2004 and onwards, additional surcharge is also payable on the aggregate of additional income-tax and surcharge thereon, 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.

It may be noted that no tax on distributed profits is chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such developer or enterprise, by way of dividends (whether interim or otherwise) on or after 1-4-2005, out of its current income either in the hands of the developer or enterprise or the person receiving such dividend [not falling u/s. 10(23G), in relation to assessment year 2006-07] [Section 115-O(6) inserted by Schedule II to the Special Economic Zones Act, 2005, w.e.f. 10-2-2006 (i.e., assessment year 2006-07 and onwards vide Notification No. 196 (E), dt. 10-2-2006: 281 ITR (St.) 2].

(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 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%² u/s. 115BB. Winnings from lotteries or crossword puzzles or 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 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%² u/s. 115BB. Winnings from horse races in excess of Rs. 2,500 is subject to deduction of tax at source u/s. 194BB.

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)].

1. For the note, on newly inserted section 115-O (1A) by the Finance Act, 2008, refer Note (2) to item (ii) on page 32.

1a. 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. Income-tax at the flat rate of 30% is to be increased by surcharge on income-tax & addl. S.C. on I.T. & S.C., if any.

(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^{2a} 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 [Clause (iv) of the proviso to section 193]. It may be noted that, w.e.f. 1-6-2007, deduction of tax is required to be made in respect of interest exceeding Rs. 10,000 payable on 8% Savings (Taxable) Bonds, 2003 [Proviso to clause (iv) of the proviso to section 193].

(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(1)]. However, certificate of tax deduction is not to be issued for any tax deducted or paid on or after 1-4-2008 [Section 203(3)^{2a}]. In such a case, the amount of tax deducted and specified in the statement referred to in section 203AA shall be treated as tax paid on his behalf and credit will be given to him for the amount so paid without the production of certificate [Section 199(3)^{2a}].

(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)³].

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 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. Provisions of section 197A(1A) shall not apply where the amount of any income of the nature referred to in section 197A(1)/197A(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 197A(1B)]. However, w.e.f. 1-6-2003, no deduction of tax shall be made, in relation to assessment year 2005-06 and earlier years, 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 197A(1C)]. Further, w.e.f. 10-2-2006, deduction of tax u/s. 197A shall not be made by the offshore banking unit from interest paid, on deposit made or on borrowing, on or after 1-4-2005, by or from a non-resident or a person not ordinarily resident in India [Section 197A(1D)].

2a. For the notes on clause (ix) inserted in the proviso to section 193, amendment of section 203(3) & substituted section 199 by the Finance Act, 2008, refer item (2), (7) & (5), respectively on page 33, 34 & 33.

3. 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) Income to include any sum of money (i.e., gift) exceeding specified amount received by an individual or a Hindu undivided family:**[Sections 2(24)(xiii), 2(24)(xiv), 56(2)(v) & 56(2)(vi)]***(A) Assessment year 2007-08 & onwards:*

Any sum referred to in section 56(2)(vi) is an income and will accordingly be included in the total income for and from assessment year 2007-08 and onwards [Section 2(24)(xiv)].

Section 56(2)(vi) provides that any sum of money, the aggregate value of which **exceeds Rs. 50,000**, is received without consideration (i.e., gift), by an individual or a Hindu undivided family, in any previous year from any person or persons **on or after 1-4-2006**, the whole of the aggregate value of such sum will be chargeable to income-tax in the assessment of receipt (i.e., donee) under the head “Income from other sources” for and from assessment year 2007-08 and onwards.

However, proviso to section 56(2)(vi) provides that provisions of section 56(2)(vi) will not apply to any sum of money (gift) 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; or
- (e) from any local authority as defined in the *Explanation* to section 10(20); or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
- (g) from any trust or institution registered u/s. 12AA.

The *Explanation* to section 56(2)(vi) 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).

(B) Assessment years 2005-06 & 2006-07:

Any sum referred to in section 56(2)(v) is an income and will accordingly be included in the total income for assessment years 2005-06 and 2006-07 [Section 2(24)(xiii)].

Section 56(2)(v) provides that any sum of money **exceeding Rs. 25,000** is received without consideration (i.e., gift) by an individual or a Hindu undivided family from any person **on or after 1-9-2004 but before 1-4-2006**, the whole of such sum will be chargeable to income-tax in the assessment of receipt (i.e., donee) under the head “Income from other sources” for assessment year 2005-06 and 2006-07.

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: (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; or (e) from any local authority as defined in the *Explanation* to section 10(20); or (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or (g) from any trust or institution registered u/s. 12AA.

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).

(vi) 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 Act 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. 5,000⁴ during the financial year

4. 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) exceeding specified monetary limit during the financial year [for details, refer†† marked foot note on page 353].

[Section 194A]. However, 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 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 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)].

(g) 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, is exempt u/s. 10(35). However, any income arising on transfer (sale) of the said units will not be exempt under said section. The income exempt u/s. 10(35) is not liable to tax in the case of all categories of assessee. 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) provides for levy of additional income-tax (i.e., tax on such distributed income) at the specified rate⁵ (plus S.C. on such additional income-tax, if any) of income distributed subject to exceptions specified in section 115R(2). Additional surcharge is also payable on the aggregate of additional income-tax and surcharge thereon, if any.

(vii) 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 –

(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 pension⁶, a deduction of a sum equal to 33 $\frac{1}{3}$ % of such income subject to ceiling limit of Rs. 15,000 [Section 57(ia)].

(3) In respect of contributions received for provident fund, etc. [Refer item (vi)(e) above], 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)].

(viii) Method of accounting in respect of "Income from other sources": [Section 145]

For the notes on provisions of section 145, refer page 135.

5. Specified rate of additional income-tax (i.e., tax on distributed income):

(a) W.e.f. 1-4-2007: (i) is @ 25% on income distributed by a money market mutual fund or a liquid fund; (ii) is @ 12.5% on income distributed to any person being an individual or a HUF by a fund other than a money market mutual fund or a liquid fund; & (iii) is @ 20% on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund; and (b) upto 31-3-2007: (i) is @ 12.5% on income distributed to any person being an individual or a HUF; & (ii) is @ 20% on income distributed to any other person on or after 9-7-2004.

For the definition of 'money market mutual fund' & 'liquid fund', refer clauses (d) & (e) of the *Explanation* to section 115T.

6. 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 72].

**(ix) 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.

**(x) 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.

**(xi) 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.

**(xii) 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.

**(xiii) 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].

**(xiv) 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 or deposit⁷ together with or without interest or interest alone⁸ 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. 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) on page 172 [2nd proviso to section 269T]. For non-compliance with the provisions of section 269T, a penalty equal to the amount of loan or deposit repaid will be levied u/s. 271E.

3. PERMANENT ACCOUNT NUMBER

[Section 139A]

The salient provisions of allotment of permanent account number (PAN) u/s. 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 prescribed⁹ time limit.

(b) Every person who is required to furnish a return of income u/s. 139(4A) (or w.e.f. 1-4-2006, every employer who is required to furnish a return of fringe benefits u/s. 155WD) and has not been allotted PAN is also required to apply for and obtain PAN within the prescribed⁹ time limit [Section 139A(1)(iii)/(iv)]. Notified class or classes of persons¹⁰ 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 limit¹⁰ [Section 139A(1A)]. W.e.f. 1-6-2006, the Central Government by notification may specify any class or classes of persons who should apply to the Assessing Officer (AO) for the allotment of PAN for the purpose of collecting any information which may be useful for or relevant to the purposes of the Income-tax Act. Such person shall apply to the AO within the time notified in that notification [Section 139A(1B)].

(c) W.e.f. 1-6-2006, the AO having regard to the nature of the transactions as may be prescribed, may also allot a PAN, to any other person *whether any tax is payable by him or not*, in the manner and in accordance with the procedure as may be prescribed [Section 139A(2)]. Upto 31-5-2006, the AO may also allot a PAN to any other person *by whom tax is payable* [the then section 139A(2)].

(d) Any other person not covered by (a) to (c) above, may also apply to the AO for the allotment of PAN and the AO shall allot PAN to such applicant [Section 139A(3)].

(e) All taxpayers who have been allotted old PAN or GIR No. are also required to apply for and obtain PAN within the prescribed⁹ time limit [Section 139A(4)].

(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 application⁹. 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 [Section 139A(4)].

7. 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].

8. 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, dt. 16-1-1987: 164 ITR (St.) 154].

9. 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].

10. 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) assessee 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) assessee 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 Noti. 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 Noti. (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.

(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 114B¹¹ [Section 139A(5)].

(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 [Section 139A(5)(d)].

(i) 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)]. As the said proviso is omitted w.e.f. 1-4-2005, the said persons should also intimate their PAN/GIR No. to the person deducting tax at source under Chapter XVII-B.

(j) 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; & (4) w.e.f. 1-6-2006, in all quarterly statements to be filed u/s. 200(3). The Central Government may notify different dates from which the provisions of section 139A(5B) shall apply in respect of any class or classes of persons¹² [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) Every buyer or (w.e.f. 1-10-2004, licensee or lessee) referred to in section 206C shall intimate his PAN to the seller/w.e.f. 1-4-2007, to the person responsible for collecting tax, referred to in that section [Section 139A(5C)].

(m) Every seller/w.e.f. 1-4-2007, every person, collecting tax u/s. 206C shall quote PAN of buyer or (w.e.f. 1-10-2004, licensee or lessee) referred to in that section: (1) in all certificates furnished u/s. 206C(5); (2) in all returns u/s. 206C(5A)/206C(5B); and (3) w.e.f. 1-6-2006, in all quarterly statements to be filed u/s. 206C(3) [Section 139A(5D)].

(n) Every person receiving any document relating to a transaction referred to in (g) above should ensure that the PAN or GIR No. is quoted therein [Section 139A(6)].

(o) PAN holders who have been allotted PAN under the new series should not apply for and obtain another PAN [Section 139A(7)].

11. All documents pertaining to the transactions in relation to which PAN (or GIR No., upto 30-11-04) 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 vehicle, as defined in section 2(28) of the Motor Vehicles Act, 1998, which requires registration by a registering 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., upto 30-11-04) 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., upto 30-11-04) 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) 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) 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) 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);
- (l) w.e.f. 1-12-2004, making an application to any 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 to any other company or institution, for issue of a credit card;
- (m) w.e.f. 1-12-2004, payment of an amount of Rs. 50,000 or more to a mutual fund for purchase of its units;
- (n) w.e.f. 1-12-2004, payment of an amount of Rs. 50,000 or more to a company for acquiring shares issued by it;
- (o) w.e.f. 1-12-2004, payment of an amount of Rs. 50,000 or more to a company or institution for acquiring debentures or bonds issued by it;
- (p) w.e.f. 1-12-2004, payment of an amount of Rs. 50,000 or more to the Reserve Bank of India for acquiring bonds issued by it.

Upto 30-11-04, a person shall quote GIR No. in documents pertaining to transactions specified in (a) to (k) above till such time the PAN is allotted to him.

Any person who has not been allotted PAN and who enters into any transaction specified above, shall make a declaration in Form No. 60 giving therein the particulars of such transaction.

12. 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.

(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 apply¹³; (5) the form and manner in which the person who has not been allotted a PAN or GIR No. shall make his declaration¹³; (6) the manner in which the PAN or GIR No. shall be quoted in respect of the categories of transactions referred to in (2) above¹³; 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(4D)/139(6)/139B]

The due dates for filing of return of income for various categories of assessee are as under:

FROM ASSESSMENT YEAR 2005-06 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 ^{14/14a}
(b) in the case of a person, other than a company, referred to in the 1st proviso to section 139(1) [Refer page 176]	By 31st October
(c) in the case of any other assessee other than (a) & (b) above	By 31st July ¹⁴ .

Note: Every company shall furnish on or before the due date the return in respect of its income or loss in every previous year [3rd proviso to section 139(1)]. A firm shall also furnish on or before the due date the return in respect of its income or loss in every previous year in relation to assessment year 2006-07 and subsequent years [Amended 3rd proviso to section 139(1)].

Individual, HUF, etc. who have total income [i.e., taxable income] after giving effect to provisions of sections 10 to 10BA and deductions under Chapter VI-A, have to file their return of income. However, w.e.f. 1-4-2006 (assessment year 2006-07 and onwards), every person, being an individual or HUF or AOP or BOI or an artificial juridical person, if his total income or total income of any other person in respect of which he is assessable under the Income-tax Act during the previous year, before giving effect to the provisions of sections 10A or 10B or 10BA or deductions under Chapter VI-A exceeds the maximum amount which is not chargeable to income-tax, then such person has to, on or before the due date, file his return of income or income of such other person in the prescribed form. To illustrate for assessment year 2008-09, Mr. A, aged 45 years, has income from various sources, say Rs. 1,60,000. He is entitled to deductions under Chapter VI-A, say Rs. 60,000. The total income would be Rs. 1,00,000 (Rs. 1,60,000 less Rs. 60,000). Since his income before deductions under Chapter VI-A (Rs. 1,60,000) exceeds the basic exemption limit of Rs. 1,10,000, he is required to file his return of income even though his total income is Rs. 1,00,000 (i.e., below exemption limit), after availing deductions under Chapter VI-A [4th proviso to section 139(1)].

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 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).

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 Board¹⁵, 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).

13. Under rule 114C(1), 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 (p) [(a) to (k), upto 30-11-04] of footnote No. 11 on page 174;

(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., upto 30-11-04] has been duly and correctly quoted in the document or declaration received by such person in respect of transaction referred to in (a) to (p) [(a) to (k), upto 30-11-04] of footnote No. 11 on page 174.

Under rule 114D, every person referred to in rule 114C(2) shall forward to the Commissioner of Income-tax (Central Information Branch) [or, the concerned Director of Income-tax (Investigation), upto 30-11-04]: (1) copies of declaration of Form No. 60/61, and (2) upto 30-11-04, a statement indicating therein details of all documents pertaining to any transaction referred to in (a) to (k) of footnote No. 11 on page 174. However, copies of declaration furnished in respect of transactions referred to in (f) of footnote No. 11 on page 174 (i.e., opening a bank account) shall not be furnished to the said authorities.

Copies of declaration in Form No. 60/61 [and statement, upto 30-11-04] 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 that year.

14. For extended 'Due date' in relation to assessment years 2005-06 to 2007-08, refer 'footnote No. '34' on page 189.

14a. For the notes on amendment made in the Explanation 2(a) to section 139(1) by the Finance Act, 2008, refer para 7.1 on page 41.

15. The scheme notified is: (a) "Electronic Furnishing of Return of Income Scheme, 2007" [Vide Notification No. S.O. 1281(E), dt. 27-7-2007: 292 ITR (St.) 161]; & (b) "Furnishing of Return of Income on Internet Scheme, 2004" [Vide Notification No. S.O. 1074, dt. 30-9-2004: 270 ITR (St.) 44].

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)[(iiiaad)/(iiiae), in relation to assessment year 2006-07 and subsequent years]/(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).

W.e.f. 1-4-2006 (assessment year 2006-07 and onwards), section 139(4D) provides that every university, college or other institution referred to in section 35(1)(ii)/(iii), which is not required to furnish return of income or loss under any other provision of section 139, shall furnish the return in respect of income or loss 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 on page 175 are mandatory. The Assessing Officer does not have power to extend the due dates mentioned above. Assessing Officer will not issue notice u/s. 139 requiring the assessee to furnish the return of income. But he may issue such a notice u/s. 142(1)(i), if the assessee has not filed a return *within the time allowed u/s. 139 (1) or before the end of the relevant assessment year*¹⁶. To illustrate, if the return of income for the assessment year 2008-09 is not filed by 31-7-2008, by an assessee falling under category (c) on page 175, Assessing Officer may issue notice u/s. 142(1)(i) to the assessee to furnish the said return of income, on or after 1-8-2008.

Where an assessee files a return of income after the due dates mentioned on page 175, 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 188. 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 196).

OBLIGATORY FILING OF RETURN OF INCOME BASED ON ECONOMIC INDICATORS:

Upto assessment year 2005-2006:

Under 1st proviso to section 139(1), a person not filing return u/s. 139(1) and residing in such area¹⁷ as is notified by the Board, should file his return of income, in relation to assessment year 2005-06 and earlier years, in the prescribed Form No. 2C by the due date specified u/s. 139(1), if he, *during the previous year incurs an expenditure of Rs. 50,000 or more towards consumption of electricity or at any time during the previous year*¹⁸, fulfils any one of the following conditions –

- (i) is in occupation of an immovable property exceeding a specified floor area¹⁹, 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
- (iii) is a subscriber to a cellular telephone not being a wireless in a local loop 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 persons²⁰ to whom provisions of 1st proviso to section 139(1) shall not apply.

Travelling to neighbouring countries²¹ or to such places of pilgrimage²² 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* to section 139(1)].

Failure to file the return as above will attract a penalty u/s. 271F [For details, refer page 196]. The burden of proving reasonable cause for the default will be on the person [Section 273B].

16. Upto 31-3-2006, for the words “*within the time allowed u/s. 139(1) or before the end of the relevant assessment year*” read “within the time allowed u/s. 139(1)”.

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. Upto assessment year 2005-06, for the words in italics “*during the previous year incurs ... at any time during the previous year*”, read “*at any time during the previous year*”.

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. 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.

21. 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.

22. 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 Hajj Pilgrimage organised by the Central Hajj Committee, Mumbai, constituted under the Hajj 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.

**SCHEME TO FACILITATE SUBMISSION OF RETURN OF INCOME
THROUGH TAX RETURN PREPARERS:**

For enabling any specified class or classes of persons in preparing and furnishing returns of income, section 139B, w.e.f. 1-6-2006, empowers the Board to frame a Scheme to be notified²³. The said Scheme shall authorise a Tax Return Preparer (TRP) to assist the specified class or classes of persons in preparing and furnishing their returns of income and also to affix his signature on such return [Sections 139B(1)/(2)].

‘TRP’ means an individual, other than persons referred to in section 288(2)(ii) [i.e., any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings] or section 288(2)(iii) [i.e., any legal practitioner who is entitled to practice in any civil court in India] or section 288(2)(iv) [i.e., a chartered accountant] or an employee of the ‘specified class or classes of persons’, and who has been authorised to act as a TRP under the Scheme [Section 139B(3)(a)].

‘Specified class or classes of persons’ means any person, other than a company or a person, whose accounts are required to be audited u/s. 44AB or under any other law, who is required to furnish a return of income under the Income-tax Act [Section 139B(3)(b)].

The Scheme framed by the Board u/s. 139B may provide for the following:-

- (a) the manner in which and the period for which the TRPs shall be authorised u/s. 139B(3);
- (b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a TRP;
- (c) the code of conduct of the TRPs;
- (d) the duties and obligations of the TRPs;
- (e) the circumstances under which the authorisation given to a TRP may be withdrawn;
- (f) any other matter which is required to be specified by the Scheme for the purposes of section 139B [Section 139B(4)].

**(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 182.

**(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 193]. 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 196].

**(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:
[Sections 139(9), 139C & 139D]**

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/collected 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.

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.

23. Notified scheme is ‘Tax Return Preparer Scheme, 2006’ [Vide Notification No. 2039(E), dt. 28-11-2006: 287 ITR (St.)113].

REQUIREMENTS TO BE FULFILLED UNDER EXPLANATION TO SECTION 139(9)^{23a}:

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 (or collected at source, in relation to assessment year 2007-08 and subsequent years) before 1-4-2008^{23a} and the advance tax and tax on self-assessment, if any, claimed to have been paid. Return of income shall not be regarded as defective if: (a) certificate for tax deducted at source/collected at source (w.e.f. 1-4-2007) was not furnished u/s. 203/206C 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/TCS 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 proprietary 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, 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.

Section 139C, w.e.f. 1-6-2006, provides that the Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, reports of audit or any other documents, which are otherwise required to be furnished along with the return under any other provisions of the Income-tax Act, other than section 139D. However, on demand the said documents, statements, receipts, certificates, reports of audit or any other documents are to be produced before the Assessing Officer.

Section 139D, w.e.f. 1-6-2006, provides that the Board may make rules providing for the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner in which the return of income in electronic form may be furnished; the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return of income in electronic form but have to be produced before the Assessing Officer on demand; the computer resource or the electronic record to which the return of income in electronic form may be transmitted.

(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 him²⁴; 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 him²⁴.

(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.

^{23a}. For the amendment made in the Explanation (c)(i) to section 139(9) by the Finance Act, 2008, refer para 7.2 on page 41.

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 any return required to be furnished under section 115WD or 115WH or 139 or 142(1)(i) or 148 or 153A 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 188] 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.

From assessment year 2007-08 and onwards, self-assessment tax is payable after taking into account, —

- (a) the amount of tax already paid under any provision of the Income-tax Act;
- (b) any tax deducted or collected at source;
- (c) any relief of tax or deduction of tax claimed u/s. 90 or 91 on account of tax paid in a country outside India;
- (d) any relief of tax claimed u/s. 90A on account of tax paid in any specified territory outside India referred to in that section; and
- (e) any tax credit claimed to be set off in accordance with the provisions of section 115JAA.

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), —

(1) 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 amount of, —

- (a) advance tax, if any, paid;
- (b) any tax deducted or collected at source;
- (c) any relief of tax or deduction of tax claimed u/s. 90 & 91 on account of tax paid in a country outside India (from assessment year 2007-08 & onwards);
- (d) any relief of tax claimed u/s. 90A on account of tax paid in any specified territory outside India referred to in that section (from assessment year 2007-08 & onwards); and
- (e) any tax credit claimed to be set off in accordance with the provisions of section 115JAA (from assessment year 2007-08 & onwards) [Section 140A(1A)],

(2) 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, —

- (a) tax deducted or collected at source, in accordance with provisions of Chapter XVII, on any income which is subject to deduction or collection and which is taken in account in computing such total income;
- (b) any relief of tax or deduction of tax claimed u/s. 90 or 91 on account of tax paid in a country outside India (from assessment year 2007-08 & onwards);
- (c) any relief of tax claimed u/s. 90A on account of tax paid in any specified territory outside India referred to in that section (from assessment year 2007-08 & onwards); and
- (d) any tax credit claimed to be set off in accordance with the provisions of section 115JAA (from assessment year 2007-08 & onwards) [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)^{24a}]

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 *one year from the end of the financial year in which the return is made (i.e., filed)* [2nd 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).

24a. For the notes on substituted section 143(1) and newly inserted section 143(1A) to 143 (1C) by the Finance Act, 2008, refer para 7.4 on page 42.

(B) ASSESSMENT AFTER HEARING THE ASSESSEE:**[Sections 142, 142A & 143(2)/(3)]**

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)^{24b} 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^{24b}. 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 (AO) 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)]. W.e.f. 1-6-2007, AO shall not direct the assessee to get the accounts so audited, unless the assessee has been given a reasonable opportunity of being heard [Proviso to section 142(2A)]. Section 142(2D) provides that the expenses of, and incidental to, any audit u/s. 142(2A) [including the remuneration of the accountant] shall be determined by the Chief Commissioner or Commissioner and paid by the assessee. However, where any direction for audit is issued by the AO on or after 1-6-2007, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government [Proviso to section 142(2D)]^{24c}.

Section 142A(1) provides that for the purpose of making an assessment or re-assessment, where an 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 Assessing Officer (AO) may require the Valuation Officer (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 the 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 re-assessment in search cases u/s. 153A.

The assessment shall then be made under section 143(3)/143(3)(ii) on the basis of evidence produced or report of audit/valuation report, 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.

^{24b}. For the notes on substituted proviso to section 143(2)(ii) and insertion of new section 292BB by the Finance Act, 2008, refer para 7.5 on page 42.

^{24c}. For the notes on amendment of proviso to section 142(2C) by the Finance Act, 2008, refer para 7.3 on page 42.

**(iii) Reassessment:
(Sections 147 to 151^{24d})**

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 148²⁵ calling 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)²⁶. W.e.f. 1-6-2001, 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 reopened, by issuing notice on or after 1-4-2008 but before 1-4-2009, will be —

- (a) assessment year 2004-05, where escaped income is less than Rs. 1,00,000; and
- (b) assessment year 2002-03, where escaped income is Rs. 1,00,000 or more.

**(iv) Time limit for completion of assessment or reassessment:
(Section 153^{24d})**

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:* Section 153(1) provides that the assessment proceedings have to be completed within 21 months from the end of the relevant assessment year.

(2) *For assessment, reassessment or recomputation u/s. 147:* Section 153(2) provides that assessment proceedings have to be completed within 1 year from the end of the financial year in which notice u/s. 148 was served. Where the notice u/s. 148 was served on or after 1-4-2005, time limit for completion of the said assessment will be 9 months, as against 1 year [2nd proviso to section 153(2)].

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 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 said order was received by the Chief Commissioner or Commissioner, or passed by the Chief Commissioner or Commissioner on or after 1-4-2005, the time limit for completion of said fresh assessment will be 9 months, as against 1 year [2nd proviso to section 153(2A)].

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), assessee is advised to file also an appeal u/s. 246/246A against such intimation.

Section 154(8) provides that where rectification application is made by the assessee, on or after 1-6-2001, to

24d. For the amendments made in sections 147, 151 & 153 by the Finance Act, 2008, refer para 7.6 & 7.7 on page 43.

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)].

26. W.e.f. 1-10-1991, two provisos inserted in section 148(1). These provisos are applicable only to return of income furnished u/s. 148(1) during the period from 1-10-1991 to 30-09-2005. The said provisos provide that, if a notice has been issued: (1) u/s. 143(2) (as it stood immediately before the amendment of said section by the Finance Act, 2002); or (2) u/s. 143(2)(ii), after the expiry of 12 months from the end of the month in which the return is furnished, but before the expiry of the time limit for completing assessment or reassessment specified u/s. 153(2), the notice so issued shall be deemed to be a valid notice.

The *Explanation* inserted, w.e.f. 1-10-2005, clarifies that the above provisos will not apply to any return furnished on or after 1-10-2005 in response to notice served u/s. 148.

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].

6. AVOIDANCE OF TAX BY CERTAIN TRANSACTIONS IN SECURITIES/UNITS

[Section 94(7)/(8)]

Section 94 deals with avoidance of tax by certain transactions in securities. 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. However, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), the time limit in relation to sale of units (and not securities) is extended from 3 months to 9 months after such record date. The provisions of section 94(7) deals with purchase of securities/unit cum-dividend/cum-income and sale thereof ex-dividend/ex-income within specified period 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.

W.e.f. 1-4-2005 (assessment year 2005-06 and onwards), section 94(8) provides that where a person buys or acquires any units (hereafter referred to as original units) within a period of 3 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 9 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 term 'interest'/'record date'/'securities'/'unit' is defined in clauses (a)/(aa)/(b)/(d) of the *Explanation* to section 94.

7. MISCELLANEOUS PROVISIONS

(A) TREATMENT OF LOSSES:

(i) Set off and carry forward of losses: (Sections 70, 71, 71A, 71B & 72)

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)].

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)].

Upto assessment year 2004-05, loss under the head "Profits and gains of business or profession" can be set off u/s. 71(1)/(2) against income under the head "Salaries" in the same assessment year. From assessment year 2005-06 and onwards, section 71(2A) 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 salary income.

For the notes in respect of loss under the head "Capital gains", refer sub-item (iv) on page 184.

For the notes in respect of loss under the head "Income from house property", refer item (vi) on page 98.

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 as provided in section 73 [Refer sub-item (iii) on page 184].

**(ii) Carry forward and set off of accumulated loss & unabsorbed depreciation allowance
in amalgamation or demerger, etc.:**

(Sections 72A & 72AA)

**(A) COMPANY OWNING AN INDUSTRIAL UNDERTAKING OR A SHIP OR A HOTEL OR
A BANKING COMPANY AMALGAMATING WITH ANOTHER COMPANY, ETC.:**

Provisions of section 72A are applicable where there has been: (1) an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in section 5(c) of the Banking Regulation Act, 1949 with a specified bank²⁷; or (2) from assessment year 2008-09 and onwards, an amalgamation of one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business.

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 —

(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) 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 PROPRIETARY CONCERN IS SUCCEEDED BY A COMPANY:

Where there has been reorganisation of business, whereby, a firm/sole proprietary 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 proprietary 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 proprietary 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)].

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)].

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 hands of 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)].

Section 72AA, w.e.f. 1-4-2005 (assessment year 2005-06 and onwards), provides that where a banking company has been amalgamated with a banking institution under a scheme sanctioned and brought into force by the Central Government u/s. 45(7) of the Banking Regulation Act, 1949, the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or the allowance for depreciation of the banking institution for the previous year in which the scheme of amalgamation was brought into force and the provisions of the Income-tax Act, relating to set-off and carry forward of loss and unabsorbed depreciation shall apply accordingly. For the definition of the terms ‘accumulated loss’, ‘banking company’, ‘banking institution’ & ‘unabsorbed depreciation’, refer *Explanation* to section 72AA.

Speculation loss can be set off in the same year only against the speculation profits. From assessment year 2006-07 and onwards, unabsorbed speculation loss will be carried forward and set off against speculation profits of the subsequent assessment years upto 4 years. Upto assessment year 2005-06, such loss can be carried forward and set off upto 8 years [Section 73(4)]. 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].

Loss under the head “capital gains” cannot be set off against income under any other head of income in the same assessment year [Section 71(3)]. 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)]. Also refer item (ii) on page 177.

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 loss 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.

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 2008-09, partner D has retired from 1-4-2007 and in his place E has been taken up as partner with the same share i.e., 25%. For the assessment year 2008-09, the firm is assessed on business income of Rs. 1,15,000 without set off of the loss of the preceding years. The assessed business loss of the firm for assessment year 1997-98 is Rs. 15,000, for assessment year 1998-99 is Rs. 10,000, 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. 5,000 for assessment year 2002-03 is Rs. 5,000, for assessment year 2003-04 is Rs. 10,000, for assessment year 2004-05 is Rs. 60,000, for assessment year 2005-06 is Rs. 5,000, for assessment year 2006-07 is Rs. 20,000 and for assessment year 2007-08 is Rs. 5,000. The net assessable business income of the firm for assessment year 2008-09 will be worked out as under:

Business income for the assessment year 2008-09	..	..	..	..	..	..	..	..	Rs. 1,15,000
(1) Assessed loss of the firm for the assessment years 1997-98 to 1999-2000	Rs. 30,000	[Rs. 15,000 + Rs. 10,000 + Rs. 5,000]	cannot be set off as period of 8 succeeding assessment years has expired in assessment year 2005-06/2006-07/2007-08 [Section 72(3)]	..	..	..	Rs.	NIL	
(2) Assessed loss of the firm for the assessment years 2000-01 to 2007-08	[Rs. 10,000 + Rs. 5,000 + Rs. 5,000 + Rs. 10,000 + Rs. 60,000 + Rs. 5,000 + Rs. 20,000 + Rs. 5,000]	..	..	..	..	Rs.	1,20,000		
Less: Share of partner D who has retired at beginning of assessment year 2008-09 [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 2008-09	..	..	..	..	..	..	Rs. 25,000		

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)].

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)].

[Sections 2(24), 10(2A), 15, 28, 40(b), 75, 78, 140, 143, 155, 167A, 184, 185, 187, 188, 188A, 189, 194A(3) & 246A]

Salient features of assessment of firms and its partners are—

There will be no distinction between registered firm and unregistered firm.

All firms, which are assessable as firms, will be charged to tax at maximum marginal rate

under section 167A [For assessment year 2005-06, the said rate is 35% as I.T. plus S.C. @ $2\frac{1}{3}\%$ of I.T. plus Addl. S.C. @ 2% of I.T. & S.C.; for assessment years 2006-07 & 2007-08, the said rate is 30% as I.T. plus S.C. @ 10% of I.T. plus Addl. S.C. @ 2% of I.T. & S.C.; for assessment year 2008-09, the said rate is 30% as I.T., plus S.C. @ 10% of I.T. where the taxable income exceeds Rs. 1,00,00,000 plus Addl. S.C. @ 3% of I.T. & S.C., if any]. For the purposes of payment of advance tax during the financial year ending on 31-3-2009, refer Paragraph C of Part III of the First Schedule to the Finance Act, 2008.

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. **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. 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)].

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).

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 44AA³⁰:**

- (a) on the first Rs. 1,00,000 of the book-profit^{30a} .. Rs. 50,000 or at the rate of 90% of the book-profit^{30a},
or in case of a loss .. whichever is more;
- (b) on the next Rs. 1,00,000 of the book-profit^{30a} .. at the rate of 60%;
- (c) on the balance of the book-profit^{30a} .. at the rate of 40%.

(ii) **FOR FIRMS OTHER THAN PROFESSIONAL FIRMS:**

- (a) on the first Rs. 75,000 of the book-profit³¹ .. Rs. 50,000 or at the rate of 90% of the book-profit³¹,
or in case of a loss .. whichever is more;
- (b) on the next Rs. 75,000 of the book-profit³¹ .. at the rate of 60%;
- (c) on the balance of the book-profit³¹ .. at the rate of 40%.

Any payment in excess of the above ceiling will be disallowed in the hands of the firm.

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 will be disallowed under section 40(b)(iv).

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 deed³². 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.

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.

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).

30a. Refer footnote No. 31 on page 187.

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.

For notes in respect of “Losses of firms and their partners”, refer item (vi) on page 185.

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 252.

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 186.

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.

31. “Book-profit” means the net profit, as per the profit and loss account, computed under sections 28 to 44DB 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 252.

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.

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 193. 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.

(a) *For delay or failure in furnishing the return of income under section 234A³³:*

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 interest³³—

- (a)
- (b) from 1-6-2001 to 7-9-2003, at the rate of 1¼% for every month or part of a month,
- (c) from 1-6-1999 to 31-5-2001, at the rate of 1½% for every month or part of a month,
- (d) upto 31-5-1999, at the rate of 2% 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 2005-06 and onwards:

	<u>'Due date' specified for filing the return of income</u>	<u>Period for which interest is chargeable</u>
(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 ^{34/34a} 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 176]	31st October of the assessment year	From 1st November of the assessment year to the date of furnishing the return of income

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 pp. 190-191.

- (c) In the case of any other assessee other than (a) & (b) above 31st July³⁴ of the assessment year of the From 1st August³⁴ of the assessment year to the date of furnishing the return of income
- (d) Where no return is furnished From 1st November³⁴ or 1st August³⁴, as the case may be, to the date of completion of assessment u/s. 144.

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 of income	Extended 'Due date'	Interest chargeable u/s. 234A from	Order No.	Refer
2005-06	31-7-2005	31-8-2005†	1-9-2005 instead of 1-8-2005	For specified assesseees & Order No., refer † below.	
2005-06	31-7-2005	31-10-2005*	1-11-2005 instead of 1-8-2005	For specified assesseees & Order No., refer * below.	
2005-06	31-10-2005	31-3-2006‡	1-4-2006 instead of 1-11-2005	For specified assesseees & Order No., refer ‡ below.	
2006-07	31-7-2006	31-10-2006\$	1-11-2006 instead of 1-8-2006	For specified assesseees & Order No., refer \$ below.	
2006-07	31-7-2006	30-9-2006§	1-10-2006 instead of 1-8-2006	For specified assesseees & Order No., refer § below.	
2006-07	31-10-2006	31-12-2006**	1-1-2007 instead of 1-11-2006	For specified assesseees & Order No., refer ** below.	
2006-07	31-10-2006	30-11-2006††	1-12-2006 instead of 1-11-2006	For specified assesseees & Order No., refer †† below.	
2007-08	31-7-2007	15-9-2007§§	16-9-2007 instead of 1-8-2007	For specified assesseees & Order No., refer §§ below.	
2007-08	31-10-2007	2-11-2007‡‡	3-11-2007 instead of 1-11-2007	For specified assesseees & Order No., refer ‡‡ below.	
2007-08	31-10-2007	15-11-2007\$\$\$	16-11-2007 instead of 1-11-2007	For specified assesseees & Order No., refer \$\$\$ below.	
2007-08	31-10-2007	31-12-2007•	1-1-2008 instead of 1-11-2007	For specified assesseees & Order No., refer • below.	

Note: For assessment year 2007-08, assessee who have filed the return of income on or after 14-5-2007 in a form other than one of the forms (i.e., ITR-1 to ITR-8), due date is extended to 29-2-2008 [Vide F. No. 142/34/2007-TPL, dt. 14-12-2007: 297 ITR (St.)82].

† 'Due date' is extended in the case of assesseees—

(a) in the State of Gujarat [Vide Order No. F. No. 220/1/2005-IT(A-II), dt. 8-7-2005: 276 ITR(St.) 149];

(b) for e-filing of returns of income u/s. 139(1B) [Vide Order No. F. No. 220/3/2005-IT(A-II), dt. 21-7-2005: 276 ITR(St.) 146];

(c) in the State of Maharashtra [Vide Order No. F. No. 220/1/2005-IT(A-II), dt. 27-7-2005: 276 ITR(St.) 149]; and

(d) in the State of Goa [Vide Order No. F. No. 220/1/2005-IT(A-II), dt. 29-7-2005: 276 ITR(St.) 148].

* 'Due date' is extended in the case of assesseees in the districts of Maharashtra & Karnataka viz. Thane, Raigad, Pune, Satara, Sangli, Kolhapur, Nanded, Parbhani, Hingoli & Belgaum [Vide Order No. F. No. 220/1/2005-IT(A-II), dt. 24-8-2005: 277 ITR(St.) 52].

‡ 'Due date' for obtaining tax audit report u/s. 44AB as well as for filing of return of income extended in the case of assesseees in the State of Jammu and Kashmir [Vide Order No. F. No. 220/1/2005-IT(A-II), dt. 27-10-2005: 278 ITR(St.) 19].

\$ 'Due date' is extended in all cases of non-corporate tax payers (including partners of the firms and charitable trusts and institutions) other than individuals & HUFs not having income under the head "Profits and gains from business or profession" [vide F.No. 142/41/2005-TPL(Pt), dt. 24-7-2006: 284 ITR (St.) 62].

§ 'Due date' is extended in case of income-tax assesseees in the State of Gujarat [Vide F. No. 220/3/2006-ITA-II, dt. 15-9-2006: 286 ITR (St.) 26].

** 'Due date' for obtaining audit report u/s. 44AB as well as for filing returns of income is extended in the case of assesseees in the State of Gujarat [Vide F.No. 220/5/2006-ITA-II, dt. 13-10-2006: 286 ITR (St.) 56].

†† 'Due date' for obtaining the report of audit u/s. 44AB as well as for filing return of income is extended in the case of companies (other than companies assessed or assessable in the State of Gujarat) [Vide F.No. 133/38/2006-TPL(Pt), dt. 24-10-2006: 286 ITR (St.) 86].

§§ 'Due date' is extended in the case of assesseees in the State of Bihar [Vide order F.No. 220/4/2007-ITA-II, dt. 16-8-2007: 293 ITR (St.) 38].

‡‡ 'Due date' is extended in the case of assesseees who are required to furnish returns of income in paper format [Vide Order F.No. 225/147/2007-ITA-II (Pt.), dt. 31-10-2007: 295 ITR (St.) 11].

\$\$\$ 'Due date' is extended in the case of companies & firms, requiring tax audit u/s. 44AB, who are required to furnish returns in electronic format [Vide Order F.No. 225/147/2007-ITA-II (Pt.), dt. 31-10-2007: 295 ITR (St.) 10].

• 'Due date' is extended in the case of assesseees in the State of Bihar [Vide F.No. 220/4/2007-ITA-II, dt. 8-10-2007: 294 ITR (St.) 12].

34a. For the notes, on amendment made in the *Explanation 2(a)* to section 139(1) by the Finance Act, 2008, refer para 7.1 on page 41.

**INTEREST
PAYABLE**

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E X A M P L E : *p l u s*
 Less:Less: Add: (b) Interest chargeable for defaults in payment of advance tax: *p l u s*
 (c) Interest on excess refund:(d) Interest payable by an assessee on delayed payment of tax other than advance tax:
 Less:lessNotes: 2. Interest payable to assessee:
 ExampleExampleEXAMPLE:
 less
 EXAMPLE: _____
 less
 plusless

37. Refer footnote No. 33 on page 188.

38. 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.

39. In the above *Example 1*, if there was 2 months' delay in filing the return of income (i.e., filed on 31-12-2008) 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 $\frac{1}{2}\%$ p.m. for 10 months [12 months *less* 2 months' delay in filing the return] on Rs. 12,000 will be Rs. 600.

40. 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 on the refund will be payable to the assessee [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 190];

(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.

4. Rounding off amount payable and refund due:

W.e.f. 13-7-2006, any amount payable, and the amount of refund due, under the Income-tax Act shall be rounded off to the nearest multiple of Rs. 10 and for this purpose any part of a rupee consisting of paise is to be ignored and thereafter if such amount is not a multiple of 10, then, if the last figure in that amount is 5 or more, the amount shall be increased to the next higher amount which is a multiple of 10 and if the last figure is less than 5, the amount shall be reduced to the next lower amount which is a multiple of 10 (Refer *Example* on page 190) [Vide substituted section 288B].

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 ⁴¹ /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 ⁴¹ /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	1% for every month or part of a month [12% p.a., from 8-9-2003 to 31-3-2008; 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 person 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) 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, and (2) 15% p.a. upto 31-3-1989, from 31st day to the date of payment	Amount specified in the demand notice issued u/s. 156 [Refer <i>Illustration</i> on page 191].

41. 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.)

<i>Section of the Income-tax Act</i>	<i>Circumstances under which interest is payable or receivable by an assessee</i>	<i>Rate of interest and period for which interest is payable/receivable</i>	<i>Amount on which interest is to be calculated</i>
234A ⁴²	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, tax deducted or collected at source and from assessment year 2007-08 and onwards, any relief/ deduction/tax credit allowed/ set-off u/s. 90, 90A, 91 & 115JAA. Interest is not payable on additional income-tax, if any, determined u/s. 143(1A) [Refer <i>Example</i> on page 190].
234B ⁴²	Failure to pay advance tax or advance tax paid is less than 90% of the assessed tax ⁴³	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 ⁴³ and the advance tax paid, if any. Interest is not payable on additional income-tax, if any, determined u/s. 143(1A) [Refer <i>Examples</i> 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 ⁴²	(1) <i>IN THE CASE OF AN ASSESSEE BEING AN ASSESSEE OTHER THAN A COMPANY:</i>		
	(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" ⁴⁴ and advance tax paid or payable on or before 15th September, (2) 60% of the "tax due on the returned income" ⁴⁴ and advance tax paid or payable on or before 15th December [Refer <i>Illustration</i> 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" ⁴⁴ and advance tax paid or payable on or before 15th March [Refer <i>Illustration</i> to sub-item (ii) of item (7) on page 291].
	(2) <i>IN THE CASE OF AN ASSESSEE BEING A COMPANY</i>		
	(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% ⁴⁵ of the "tax due on the returned income" ⁴⁴ and advance tax paid or payable on or before 15th June, (2) 45% ⁴⁵ of the "tax due on the returned income" ⁴⁴ and advance tax paid or payable on or before 15th September, (3) 75% of the "tax due on the returned income" ⁴⁴ 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" ⁴⁴ and advance tax paid or payable on or before 15th March.

42. Interest payable u/s. 234A, 234B, and 234C has to be paid alongwith self-assessment tax payable u/s. 140A.

43. "assessed tax" means, the tax on the total income determined u/s. 143(1) or on regular assessment as reduced by the amount of: (1) 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; and (2) from assessment year 2007-08 and onwards, any relief of tax allowed u/s. 90/90A, deduction allowed u/s. 91 and tax credit allowed u/s. 115JAA [Explanation 1 to section 234B(1)].

44. "tax due on the returned income" means tax chargeable on the total income declared in the return and reduced by the amount of: (1) tax deductible and/or collectible at source on any income which is taken into account in computing such total income; and (2) from assessment year 2007-08 & onwards, any relief of tax allowed u/s. 90/90A, deduction allowed u/s. 91 and tax credit allowed u/s. 115JAA [Explanation to section 234C(1)].

45. 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"⁴⁴, 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.)

<i>Section of the Income-tax Act</i>	<i>Circumstances under which interest is payable or receivable by an assessee</i>	<i>Rate of interest and period for which interest is payable/receivable</i>	<i>Amount on which interest is to be calculated</i>
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 ⁴⁶	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 <i>Example 1</i> on page 192].
	(2) in any other case of refund arising on appeal, refund withheld by the Assessing Officer ⁴⁶ , 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 <i>Example 2</i> on page 192].

- 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:*

<i>Section of the Income-tax Act</i>	<i>Nature of default</i>	<i>Penalty leviable</i>
221(1) ⁴⁷	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 impossible even if the tax has been paid after the default in payment has occurred.
271B ⁴⁸	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 ⁴⁸	W.e.f. 1-4-1989, failure to deduct the whole or any part of tax @ source as required under Chapter XVII-B, or 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 deducted. An amount equal to tax that should have been paid.
271CA ⁴⁸	W.e.f. 1-4-2007, failure to collect the whole or any part of tax as required under Chapter XVII-BB	A sum equal to the amount of tax that should have been collected.
271D ⁴⁸	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 ⁴⁸	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.

46. 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.

47. In respect of defaults u/s. 221(1), no penalty is impossible on the assessee, if he proves that the default was for good and sufficient reasons [2nd proviso to section 221(1)].

48. In respect of the defaults under this section/sub-section, no penalty is impossible 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.)

<i>Section of the Income-tax Act</i>	<i>Nature of default</i>	<i>Penalty leviable</i>	
271F ⁴⁹	W.e.f. 1-4-1999 (assessment year 1999-2000 and onwards), failure to furnish return of income <i>before the end of the relevant assessment year</i> ; in the case of persons referred to in section 139(1) W.e.f. 1-6-2002, failure to furnish return of income <i>before the end of the relevant assessment year</i> , in the case of persons referred to in 1st proviso to section 139(1) 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. 1,000/Rs. 5,000 (for defaults committed on or after 1-6-2001). Rs. 5,000. Rs. 500/Rs. 5,000 (for defaults committed on or after 1-6-2001).	
271FA ⁴⁹	W.e.f. 1-4-2005, failure to furnish annual information return as required u/s. 285BA(1)	Rs. 100 for every day during which the failure continues.	
272AA ⁴⁹	Failure to comply with the provisions of section 133B	A sum which may extend to Rs. 1,000.	
272B ⁴⁹	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)/139A(5C), w.e.f. 1-4-2005/quoting or intimating PAN which is false	Rs. 10,000.	
272BB ⁴⁹	Failure to comply with the provisions of section 203A W.e.f. 1-6-2006, quoting of false tax deduction/collection account number in challan, etc. referred to in section 203A(2)	A sum which may extend to Rs. 5,000. For defaults committed on or after 1-6-2001, fixed amount of Rs. 10,000. Fixed amount of Rs. 10,000.	
271(1)(b) ⁴⁹	Failure to comply with a notice u/s. 142(1) or 143(2) or failure to comply with directions issued u/s. 142(2A)	<u>MINIMUM PENALTY</u> Rs. 1,000 for each such failure For defaults committed on or after 1-6-2001, fixed amount of Rs. 10,000 for each such failure.	<u>MAXIMUM PENALTY</u> 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 ⁴⁹	Failure to keep, maintain or retain books of account, documents, etc., as required under section 44AA	Rs. 2,000 For defaults committed on or after 1-6-2001, fixed amount of Rs. 25,000.	Rs. 1,00,000. For defaults committed on or after 1-6-2001, fixed amount of Rs. 25,000.
272A(1)(a) & (1)(b) 272A(1)(c) ⁴⁹ 272A(1)(d) ⁴⁹	Failure to answer questions, or sign statements asked or made in course of any proceeding under the Act Failure to comply with notice u/s. 131(1), i.e., to attend and give evidence, and/or produce books of account or documents 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]	Rs. 500 for each default or failure For defaults committed on or after 1-6-2001, fixed amount of Rs. 10,000 for each such default or failure.	
272A(2) ⁴⁹	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 ⁵⁰ , 206B ⁵⁰ , 206C ⁵¹ 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 ⁵¹ (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] (k) to deliver or cause to be delivered a copy of the statement within the time specified in section 200(3) or proviso to section 206C(3) [w.e.f. 1-4-2005] (l) to deliver or cause to be delivered the quarterly return within the time specified u/s. 206A(1) [w.e.f. 1-6-2005]	Rs. 100 ⁵² for every day during which the failure continues	[Applicable upto 31-5-1999] Rs. 200 ⁵² 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)].

49. Refer footnote No. 48 on page 195.

50. In clause (c), figures and letters "206A" and "206B" omitted w.e.f. 1-10-1996 consequent to omission of sections 206A and 206B.

51. In clauses (c) and (g), figures and letter "206C" inserted w.e.f. 1-10-1991.

52. 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. Further, w.e.f. 1-6-2006, the quantum of penalty for non-filing of quarterly statements u/s. 200(3) or the proviso to section 206C(3) is to be restricted to tax deductible or collectible at source [Proviso to section 272A(2)].

(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 an 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.

W.e.f. 13-7-2006, section 275(1A) provides that where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) (CA) or to the Appellate Tribunal (AT) or to the High Court (HC) or to the Supreme Court (SC) or revision u/s. 263 or 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the CA or the AT or the HC or the SC is received by the Chief Commissioner or the Commissioner or the order of revision u/s. 263 or 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the CA or AT or HC or SC or order of revision u/s. 263 or 264, penalty proceeding, after giving a reasonable opportunity to the assessee, have to be completed within six months from the end of the month in which the order of the CA or AT or HC or SC is received by the Chief Commissioner or Commissioner or the order of revision u/s. 263 or 264 is passed.

FRINGE BENEFIT TAX IN RESPECT OF FRINGE BENEFITS¹ :**[Chapter XII-H (Sections 115W to 115WL)]***Assessment year 2006-07 and onwards:*

Chapter XII-H has been inserted w.e.f. 1-4-2006 (assessment year 2006-07 and onwards). This chapter consisting of sections 115W to 115WL makes a special provision for levy of additional income-tax [referred to in the Income-tax Act as fringe benefit tax (FBT)] in respect of the *fringe benefits provided or deemed to have been provided by an employer to his employees* in respect of certain specified expenses incurred by the employer. The rate of FBT is @ 30% on the value of fringe benefits determined as per Table given on pp. 199-200. This FBT rate of 30% is to be increased by surcharge on FBT, if any, and additional S.C. on aggregate of I.T. & S.C., if any. The FBT is chargeable in addition to income-tax charged under the provisions of the Income-tax Act [Section 115WA(1)]. FBT is payable even if no tax is payable by an employer under other provisions of the Income-tax Act [115WA(2)].

‘Employer’ is defined to mean—

- (1) a company;
- (2) a firm;
- (3) an association of persons or a body of individuals, whether incorporated or not;
- (4) a local authority; and
- (5) every artificial juridical person, other than (1) to (4) above [Section 115W(a)].

However, any person eligible for exemption u/s. 10(23C) or registered u/s. 12AA or a political party registered u/s. 29A of the Representation of the People Act, 1951 shall not be deemed to be an employer for the purposes of Chapter XII-H [Proviso to section 115W(a)].

FRINGE BENEFITS AND THE VALUE IN RESPECT THEREOF:

“Fringe benefits” means benefits, any consideration for employment provided by way of—

- (a) any privilege, service, facility or amenity, directly or indirectly, *provided by an employer*, whether by way of reimbursement or otherwise, *to his employees* (including former employee or employees);
- (b) any free or concessional ticket provided by the employer for private *journeys of his employees or their family members*;
- (c) any contribution by the employer to an approved superannuation fund for employees; and
- (d) any specified security² or sweat equity shares³ allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), in relation to assessment year 2008-09 and subsequent years [Section 115WB(1)].

For the purposes of section 115WB(1), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee. From assessment year 2007-08 and onwards, any benefit or amenity in the nature of free or subsidised transport or any such allowance provided by the employer to his employees for journeys by the employees from their residence to the place of work or such place of work to the place of residence shall also not form part of the fringe benefits u/s. 115WB(1) [Section 115WB(3)].

In addition to above, fringe benefits shall be deemed to have been provided by the *employer to his employees*, if he has, in the course of his business or profession (including any activity even if such activity is carried on without the object of deriving income, profits or gains), incurred any expense on, or made any payment for, the purposes enumerated at S. No. 4(A) to (Q) of the Table on pp. 199-200 [Section 115WB(2)].

The value of fringe benefits shall be the aggregate of the cost, expense, etc. as given in the Table on pp. 199-200 [Section 115WB(1)].

1. For the gist of Circular No. 8 explaining the provisions relating to Fringe Benefit Tax, refer pp. 203-211 of ITRR 2006-07 (68th Year of Publication).

2. “specified security” means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme [Explanation (i) to section 115WB(1)(d)].

3. “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 [Explanation (ii) to section 115WB(1)(d)].

TABLE

S. No.	Fringe benefits	Value of fringe benefits
1.	Any free or concessional ticket provided by the employer for private journeys of his employees or their family members [Sec. 115WB(1)(b)]	Cost at which it is provided by the employer to the public <i>less</i> amount recovered from his employee(s) (Refer Note 1) [Sec. 115WC(1)(a)].
2.	Any contribution by the employer to an approved superannuation fund for employees [Sec. 115WB(1)(c)]	Amount of contribution exceeding Rs. 1 lakh in respect of each employee (For assessment year 2006-07, actual amount contributed) [Sec. 115WC(1)(b)].
3.	Any specified security ⁴ or sweat equity shares ⁵ allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), in relation to assessment year 2008-09 and subsequent years [Sec. 115WB(1)(d)] ^{5a}	Fair market value ⁶ of the specified security ⁴ or sweat equity shares ⁵ , on the date on which the option ⁷ vests with the employee as reduced by the amount actually paid by, or recovered from, the employee in respect of such security or shares (Refer Note 2) [Sec. 115WC(1)(ba)].
4.	(A) entertainment [Sec. 115WB(2)(A)]	* 20% of the expenses incurred [Sec. 115WC(1)(c)].
	(B) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade but does not include— (1) any expenditure on, or payment for, food or beverages provided by the employer to his employees in office or factory; (2) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets [Sec. 115WB(2)(B)] ^{7a} .	
	(C) conference (other than fee for participation by the employees in any conference). Conference expenditure to include any expenditure on conveyance, tour and travel (including foreign travel), on hotel, or boarding & lodging in connection with any conference [Sec. 115WB(2)(C)].	20% of the expenses incurred [Sec. 115WC(1)(c)].
	(D) sales promotion including publicity. However, specified expenditure (Refer Note 3 on page 200) on advertisement shall not be considered as sales promotion including publicity [Sec. 115WB(2)(D)]	20% of the expenses incurred [Sec. 115WC(1)(c)].
	(E) employees' welfare other than expenditure incurred or payment made to fulfil any statutory obligation or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer [Sec. 115WB(2)(E)] ^{7a}	
	(F) conveyance, tour and travel (including foreign travel). From assessment year 2007-08 and onwards, for the value of fringe benefits in respect of 'tour and travel (including foreign travel)', refer (Q) on page 200 [Sec. 115WB(2)(F)]	*/† 20% of the expenses incurred [Sec. 115WC(1)(c)].
	(G) use of hotel, boarding and lodging facilities [Sec. 115WB(2)(G)]	
	(H) repair, running (including fuel), maintenance of motorcars and the amount of depreciation thereon [Sec. 115WB(2)(H)]	
	(I) repair, running (including fuel), maintenance of aircrafts and the amount of depreciation thereon [Sec. 115WB(2)(I)]	

For * & †, refer * & † on page 200.

4. Refer footnote No. 2 on page 198.

5. Refer footnote No. 3 on page 198.

5a. For the explanatory circular on Fringe Benefit Tax arising on allotment or transfer of specified securities or sweat equity shares, refer Circular No. 9, dt. 20-12-2007 : 297 ITR (St.) 1.

6. "fair market value" means the value determined in accordance with the method prescribed by the Board [Refer rule 40C & 40D of the Income-tax Rules, 1962].

7. "option" means a right but not an obligation granted to an employee to apply for the specified security⁴ or sweat equity shares⁵ at a predetermined price.

7a. For the notes on amendment made in section 115WB(2)(B) & 115WB(2)(E) by the Finance Act, 2008, refer para 8.1 (B) & (C) on page 44.

TABLE (Contd.)

S. No.	Fringe benefits	Value of fringe benefits
4.	(J) use of telephone (including mobile phone) other than expenditure on leased telephone lines [Sec. 115WB(2)(J)]	20% of the expenses incurred [Sec. 115WC(1)(c)].
	(K) maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes [Sec. 115WB(2)(K) ^{7b}]	
	(L) festival celebrations [Sec. 115WB(2)(L) ^{7b}]	7b50% of the expenses incurred [Sec. 115WC(1)(d)].
	(M) use of health club and similar facilities [Sec. 115WB(2)(M)]	
	(N) use of any other club facilities [Sec. 115WB(2)(N)]	
	(O) gifts [Sec. 115WB(2)(O)]	
	(P) scholarships [Sec. 115WB(2)(P)]	
	(Q) tour and travel (including foreign travel), for assessment year 2007-08 and onwards. For assessment year 2006-07, the valuation of this fringe benefit is as per (F) on page 199 [Sec. 115WB(2)(Q)]	5% of the expenses incurred [Sec. 115WC(1)(c)].

- Notes: (1) Where the expenses referred to in section 115WB(1)(b) are included in any other clause of section 115WB(2) [i.e. deemed fringe benefits as per 4(A) to (Q) of the Table on page 199 & above], the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in section 115WB(1)(b) for computing the value of fringe benefits [Proviso to section 115WC(1)(a)].
- (2) Where specified security or sweat equity shares referred to in section 115WB(1)(d) has been allotted or transferred, directly or indirectly, by the employer on or after 1-4-2007, it shall be lawful for the employer to vary the agreement or scheme under which such specified security or sweat equity shares has been allotted or transferred so as to recover from the employee the fringe benefit tax to the extent to which such employer is liable to pay the fringe benefit tax in relation the value of fringe benefits provided to the employee and determined u/s. 115WC(1)(ba) [Section 115WKA^{7c}].
- (3) Specified expenditure on advertisement which shall not be regarded as expenditure on sales promotion including publicity are: (a) expenditure (including rental) on advertisement of any form in any print (including journals, catalogues or price lists) or electronic media or transport system; (b) expenditure on the holding of, or the participation in, any press conference or business convention, fair or exhibition; (c) expenditure on sponsorship of any sports event or any other event organised by any Government agency or trade association or body; (d) expenditure on the publication in any print or electronic media of any notice required to be published under any law or by an order of a court or tribunal; (e) expenditure on advertisement by way of signs, art work, painting, banners, awnings, direct mail, electric spectacles, kiosks, hoardings, bill boards, from assessment year 2008-09 & onwards, also display of products, or by way of such other medium of advertisement; (f) expenditure by way of payment to any advertising agency for the purposes of (a) to (e) above; (g) from assessment year 2008-09 & onwards, expenditure on distribution of free sample either free of cost or at concessional rate [for assessment year 2007-08, expenditure on distribution of free samples of medicines or of medical equipment, to doctors]; and (h) from assessment year 2007-08 & onwards, expenditure by way of payment to any person of repute for promoting the sale of goods or services of the business of the employer [Proviso to section 115WB(2)(D)].
- * The value of fringe benefits shall be 5%, as against 20%, of the expenses incurred, in the case of an employer engaged in the business of —
- (1) hotel, in respect of fringe benefits referred to in 4(B) of the Table on page 199 [Sec. 115WC(2)(a)];
 - (2) carriage of passengers or goods by aircraft/ship, in respect of fringe benefits referred to in 4(B) of the Table on page 199, in relation to assessment year 2007-08 and subsequent years [Sec. 115WC(2)(aa)/(ab)];
 - (3) construction, in respect of fringe benefits referred to in 4(F) of the Table on page 199 [Sec. 115WC(2)(b)];
 - (4) manufacture or production of pharmaceuticals, in respect of fringe benefits referred to in 4(F) & 4(G) of the Table on page 199 [Sec. 115WC(2)(c)];
 - (5) manufacture or production of computer software, in respect of fringe benefits referred to in 4(F) & 4(G) of the Table on page 199 [Sec. 115WC(2)(d)];
 - (6) carriage of passengers or goods by aircraft/ship, in respect of fringe benefits referred to in 4(G) of the Table on page 199, in relation to assessment year 2007-08 and subsequent years [Sec. 115WC(2)(da)/(db)]; and
 - (7) carriage of passengers or goods by motorcar, in respect of fringe benefits referred to in 4(H) of the Table on page 199 [Sec. 115WC(2)(e)].
- † In respect of fringe benefits referred to in 4(I) of the Table on page 199, the value of fringe benefits shall be 'nil', as against 20%, of the expenses incurred, in the case of an employer engaged in the business of carriage of passengers or goods by aircraft [Sec. 115WC(2)(f)].

^{7b}. For the notes on omission of section 115WB(2)(K) and amendment of section 115WC(1)(c)/(d) by the Finance Act, 2008, refer para 8.1(D) & (E) on page 44.

^{7c}. For the notes on newly inserted section 115WKB by the Finance Act, 2008, refer para 8.1 (H) on page 45.

*PROCEDURE FOR FILING OF RETURN IN RESPECT OF FRINGE BENEFITS,
ASSESSMENT AND PAYMENT OF TAX IN RESPECT THEREOF:*

Sections 115WD to 115WL relates to procedure for filing return in respect of fringe benefits, assessment and payment of tax/advance tax on fringe benefits. The said procedure is similar to that of tax on income. The salient features of the procedure for fringe benefits are given hereafter.

Return of fringe benefits:

Every employer liable to FBT shall file a return of fringe benefits in the prescribed form, verified in the prescribed manner setting forth such other particulars as may be prescribed, to the Assessing Officer (AO) on or before the due date as under:

(1) where the employer is a company or a person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law, due date is 31st October of the assessment year^{8/8a};

(2) in the case of any other employer, due date is 31st July of the assessment year⁸ [Sec. 115WD(1)^{8a}].

Where the employer has not filed the said return within the time allowed u/s. 115WD(1), the AO may, after the due date specified in section 115WD(1), issue a notice to the employer to furnish the said return within 30 days from the date of service of the notice [Sec. 115WD(2)]. An employer, who has not filed the said return within the time allowed u/s. 115WD(1) or 115WD(2), he may file the return before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier [Sec. 115WD(3)]. An employer, who has filed the return u/s. 115WD(1) or 115WD(2) may file a revised return to correct any omission or wrong statement therein, before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier [Sec. 115WD(4)]. For delay or failure in filing the return of fringe benefits, the employer will be liable to pay simple interest at 1% for every month or part of a month, in a manner similar to that of section 234A [Sec. 115WK]. For failure to furnish return of fringe benefits before the due date specified in section 115WD(1), the AO may levy penalty, a sum of Rs. 100 for every day during which the failure continues [Section 271FB].

Assessment procedure:

The assessment procedure, including best judgment assessment is similar to that of assessment of income u/s. 143 & 144 of the Income-tax Act [Sections 115WE & 115WF]. The reassessment procedure is similar to that of reassessment of total income u/s. 147 & 148 of the Income-tax Act [Sections 115WG & 115WH]. The salient features of assessment procedure in respect of fringe benefits is given hereafter.

Section 115WE(1)⁹ provides that on filing of the return of fringe benefits, if any tax and/or interest is found due on the basis of such return, an intimation will be sent to the assessee demanding payment thereof [Section 115WE(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 115WE(1)(ii)]. The intimation u/s. 115WE(1) cannot be sent to the assessee after the expiry of *one year from the end of the financial year in which the return is made (i.e., filed)* [2nd proviso to section 115WE(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 such return will be deemed to be an intimation [1st proviso to section 115WE(1)].

Where the Assessing Officer decides to scrutinise the return of fringe benefits filed by the assessee, he will issue a notice under section 115WE(2) 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 115WE(2)^{8a}.

The assessment shall then be made under section 115WE(3) on the basis of evidence produced. 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. 115WE(1) will be deemed to have been paid towards such regular assessment. Where it is found that excess refund has been granted u/s. 115WE(1), it shall be recovered, treating it as tax payable. The assessment so made is appealable.

8. For assessment year 2006-07, due date is extended: (a) to 31-10-2006 [F. No. 142/41/2005-TPL(Pt), dt. 24-7-2006: 284 ITR (St.) 62]; (b) to 30-11-2006, in the case of companies (other than companies assessed or assessable in the state of Gujarat) [F. No. 133/38/2006-TPL (Pt.), dt. 24-10-2006: 286 ITR (St.) 86]; and (c) to 31-12-2006, in the case of assesseees in the State of Gujarat [F. No. 153/177/2006-TPL, dt. 20-10-2006].

For assessment year 2007-08, due date is extended: (a) from 31-7-2007 to 15-9-2007, in the case of income-tax assesseees in the State of Bihar [F. No. 220/4/2007-ITA-II, dt. 16-8-2007: 293 ITR (St.) 38]; (b) from 31-10-2007 to 31-12-2007, in the case of income-tax assesseees in the State of Bihar [F. No. 220/4/2007-ITA-II, dt. 8-10-2007 : 294 ITR (St.) 12]; (c) from 31-10-2007 to 15-11-2007, in the case of tax payers filing their returns in electronic format [F. No. 225/147/2007-ITA-II (Pt.), dt. 31-10-2007 : 295 ITR (St.) 10; & (d) from 31-10-2007 to 2-11-2007, in the case of assesseees required to file their returns in paper (physical) format [F. No. 225/147/2007-ITA-II (Pt.), dt. 31-10-2007 : 295 ITR (St.) 11].

8a. For the amendment made in the *Explanation (a) to section 115WE(2) by the Finance Act, 2008, refer para 8.1(F) & 8.1(G) on page 45.*

9. For the notes on substituted section 115WE(1) and newly inserted sections 115WE (1A) to 115WE (1C) by the Finance Act, 2008, refer para 8.1(G)/7.4 on page 45/42.

The “best judgment assessment” u/s. 115WF is made in the following circumstances:

- (i) failure to file return of fringe benefits under section 115WD(1) or 115WD(3) or 115WD(4); or
- (ii) failure to comply with all the terms of a notice under section 115WD(2) or failure to comply with direction issued under section 142(2A); or
- (iii) having filed the return of fringe benefits, the assessee fails to comply with all the terms of a notice issued under section 115WE(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 of the fringe benefits 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 115WD(2) had been issued to the assessee prior to making of an assessment under section 115WF, then, notice of opportunity of being heard as stated above will not be given by the Assessing Officer.

Section 115WG provides that where the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year (hereafter referred to as the relevant assessment year), he may reopen the relevant assessment, after recording his reasons for doing so, by issuing a notice under section 115WH calling upon the assessee to file a return of fringe benefits. The return called for will have to be furnished by the assessee within the time specified in the notice issued u/s. 115WH(1). The time limit for issuing such notice u/s. 115WH(1) is 6 years from the end of the relevant assessment year [Section 115WH(3)]. However, where an assessment u/s. 115WE(3) or section 115WG has been made for the relevant assessment year, no notice shall be issued u/s. 115WH(1) by an Assessing Officer, after the expiry of 4 years from the end of the relevant assessment year, unless the Chief Commissioner or Commissioner is satisfied that it is a fit case for the issue of such notice [Section 115WH(4)].

Payment of advance tax in respect of fringe benefits:

The FBT on fringe benefits is payable in advance during any financial year, in accordance with section 115WJ, in respect of the fringe benefits which would be chargeable to tax for assessment year immediately following that financial year, such fringe benefits hereafter referred to as the “current fringe benefits” [Section 115WI]. An assessee who is liable to pay advance tax u/s. 115WI, shall on his own accord, pay advance tax on current fringe benefits calculated in the manner mentioned hereafter [Section 115WJ(1)].

*(A) ADVANCE TAX ON CURRENT FRINGE BENEFITS PAYABLE DURING THE FINANCIAL YEAR
ENDING ON 31-3-2008 AND SUBSEQUENT YEARS:*

Advance tax on the current fringe benefits shall be payable in three instalments (four instalments, in the case of an assessee being a company) during each financial year. Under section 115WJ(2), w.e.f. 1-6-2007, the due date of payment and the amount payable in each instalment during financial year ending on 31-3-2008 and subsequent years is indicated in the following table:

(1) IN THE CASE OF COMPANIES:

TABLE I

<u>Due date of instalment</u>	<u>Amount payable</u>
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 ..	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(2) IN THE CASE OF ASSESSEES (OTHER THAN COMPANIES):

TABLE II

<u>Due date of instalment</u>	<u>Amount payable</u>
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 ..	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

For failure to pay advance tax on current fringe benefits by an assessee on or before the 'due date' for any instalment or where the advance tax paid by him is less than the amount payable by the 'due date', he shall be liable to pay simple interest calculated at the rate of 1% per month, for three months on an amount by which the advance tax paid—

(a) *by an assessee being a company*, 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 advance tax payable [Section 115WJ(3)(i) to (iii)];

(b) *by an assessee, being a person other than a company*, on or before 15th September or on or before 15th December is less than 30% or 60%, respectively, of the advance tax payable [Section 115WJ(4)(i) & (ii)].

An assessee being a company and also other than a company, is also liable to pay simple interest calculated at the rate of 1% on the amount by which the advance tax paid on or before 15th March is less than 100% of the advance tax payable [Section 115WJ(3)(iv) & 115WJ(4)(iii)].

For failure to pay advance tax payable by an assessee during a financial year or where the advance tax paid by him is less than 90% of the tax assessed u/s. 115WE or 115WF or 115WG, the assessee shall be liable to pay simple interest at the rate of 1% per month, for every month or part of a month comprised in the period from 1st April next following such financial year to the date of assessment of tax u/s. 115WE or 115WF or 115WG [Section 115WJ(5)].

*(B) ADVANCE TAX ON CURRENT FRINGE BENEFITS PAYABLE DURING THE FINANCIAL YEAR
ENDING ON 31-3-2006 & 31-3-2007:*

Advance tax on current fringe benefits shall be payable during the financial year ending on 31-3-2006 & 31-3-2007 in four quarters on or before 15th July, 15th October, 15th January & 15th March in respect of quarter ending on 30th June, 30th September, 31st December & 31st March, respectively [The then section 115WJ(2)]. Advance tax payable shall be @ 30% of the value of the fringe benefits referred to in section 115WC, paid or payable in respective quarter as stated above. For failure to pay advance tax for any quarter or where advance tax paid by an assessee is less than 30% of the value of the fringe benefits paid or payable in that quarter, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month during which the shortfall continues, on the amount by which the advance tax paid in any quarter falls short of 30% of the value of the fringe benefits in that quarter [The then section 115WJ(3)].

All the other provisions of the Income-tax Act will apply to the extent necessary in relation to fringe benefits also [Section 115WL].

Consequent to insertion of Chapter XII-H [Sections 115W to 115WL], consequential amendments/insertions are made in sections 2(7), 2(23B), 2(43), 17(2)(vi), 40(a)(ic), 119(2)(a), 124(3), 139A, 140, 140A, 142(1), 153, 238(1A), 239(2), 244A, 246A(1), 271, 273B, 276CC & 278.

EXCLUSIONS FROM TOTAL INCOME**Wholly exempt income:***Assessment years: 2008-09 & 2009-10:*

The following is a summary of income which are wholly exempt from income-tax as specified in sections 10, 10A, 10AA, 10B & 10BA of the Income-tax Act, 1961 in relation to assessment years 2008-09 & 2009-10. Text of sections/clauses may be referred for claiming any of these exemptions.

<i>Para No.</i>	<i>Section</i>	<i>Nature of exemption</i>
1. SALARY:		
1.1	10(5)	Value of travel concession in India [For details, refer item (c) on page 89].
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 a 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 208.
1.11	10(10)	Gratuity received by employees on retirement, termination of services, etc. [For details, refer page 70].
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 75].
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 74].
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 74].
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 2 on page 85].
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 75].
1.20	10(13A)	House rent allowance from the employer [For details, refer page 87].
1.21	10(14)	Prescribed allowances to employees [For details, refer page 68].
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.

<i>Para No.</i>	<i>Section</i>	<i>Nature of exemption</i>
3. BUSINESS/PROFESSION:		
3.1	10(2A)	Share income of a partner from firm [For details, refer Para 10 on page 187].
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)	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, or entered into after 31-3-2007 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)	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. Exemption is not available to any such agreement entered into on or after 1-4-2007 [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 ^{1a}	Income of industrial undertaking from the export of articles or things or computer software, located in free trade zone or in any electronic hardware technology park/software technology park or in special economic zone [not being a unit referred to in section 2(zc) of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during previous year relevant to assessment year commencing on or after 1-4-2006 in any Special Economic Zone] for the period of 10 consecutive assessment years but not beyond assessment year 2009-10 ¹ , subject to conditions. No deduction will be allowed if assessee does not furnish the return of income before the 'due date', specified in section 139(1).
3.10	10AA	Income of any undertaking being the unit, which has begun or begins to manufacture or produce articles or things or provide any services during the previous year relevant to assessment year commencing on or after 1-4-2006, in any Special Economic Zone [as defined in section 2(za) of the SEZ Act, 2005], it is not formed by the splitting up, or the reconstruction, of a business already in existence & it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose, is eligible for deduction @100% of profits and gains derived from the export of such articles or things or from services for a period of 5 consecutive assessment years and thereafter @ 50% of such profits and gains for further 5 assessment years, subject to conditions.
3.11	10B ^{1a}	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. No deduction will be allowed if assessee does not furnish the return of income before the 'due date' specified in section 139(1).
3.12	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 (O)(1) on page 159].
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 (O)(2) on page 160].
4.3	10(23FB)	Any income of a venture capital company or venture capital fund from investment in a venture capital undertaking, subject to conditions [For details, refer item (O)(3) on page 160].
4.4	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.

1. 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)].

1a. For the notes on amendment of sections 10A & 10B by the Finance Act, 2008, refer para 1.6 on page 36.

Para No.	Section	Nature of exemption
4.5	10(36)	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 151].
4.6	10(37)	Capital gains on compensation received on compulsory acquisition of agricultural land in certain urban areas [For details, refer sub-item (C) of item 6 on page 152].
4.7	10(38)	Long-term capital gains arising on the transfer of equity shares in a company or units of an equity oriented fund. However, the income by way of such long-term capital gains of a company shall be taken into account in computing book profit and income-tax payable u/s. 115JB [For details, refer sub-item (D) of item 6 on page 152].
4.8	10(41)	Any income (i.e., capital gains) arising from transfer of a capital asset of an undertaking engaged in the business of generation or transmission or distribution of power where such transfer is effected on or before 31-3-2006, to the Indian company notified u/s. 80-IA(4)(v)(a).
5. OTHER SOURCES:		
5.1	10(4)	In the case of a non-resident, interest on securities or bonds notified by the Central Government ² , 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 204.
5.4	10(15)	Interest, premium on redemption or specified investments, etc., subject to conditions. Interest on notified bonds issued by a local authority or by a State Pooled Finance Entity.
5.5	10(19)	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 prescribed in rule 2BBA.
5.6	10(23F)	Refer Para 4.1 on page 205.
5.7	10(23FA)	Refer Para 4.2 on page 205.
5.8	10(23FB)	Refer Para 4.3 on page 205.
5.9	10(24)	Refer Para 2.2 on page 204.
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 of 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 168].
5.12	10(35)	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 (vi)(g) on page 171].
6. GENERAL		
A. RELATING TO RESIDENTS:		
6A.1	10(1)	Agricultural income as defined in section 2(1A) ³ , 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(10BC)	Any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster. The exemption is not allowable in respect of any amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under the Income-tax Act on account of any loss or damage caused by such disaster.
6A.5	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 <i>Explanation</i> to section 80C(3) [For details, refer Note to item 1 on page 210].

2. The Central Government shall not notify/specify securities or bonds on or after 1-6-2002.

3. For the notes on amendment of section 2(1A) by the Finance Act, 2008, refer para 1.1 on page 36.

Para No.	Section	Nature of exemption
6A.6	10(16)	Scholarship amount received to meet cost of education.
6A.7	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. Any constituency allowance received by a member of any State Legislature under any Act or rules made by that State Legislature.
6A.8	10(17A)	Specified awards and rewards received in cash or kind.
6A.9	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.10	10(20)	Income from house property, capital gains or other sources and from specified business of a local authority (as defined in the <i>Explanation</i>), subject to conditions.
6A.11	10(21)	Income of a scientific research association approved u/s. 35(1)(ii), subject to conditions.
6A.12	10(22B)	Any income of notified news agency set up in India, subject to conditions.
6A.13	10(23A)	Income of approved professional association or institution, other than income from house property, rendering specific services, interest or dividends, subject to conditions.
6A.14	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.15	10(23AAA)	Any income of approved fund established for notified purposes for welfare of employees or their dependents, subject to conditions.
6A.16	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.17	10(23B)	Any income of society or trust existing solely for development of khadi and village industries, subject to conditions.
6A.18	10(23BB)	Any income of statutory authority established in a State for the development of khadi or village industries in the State.
6A.19	10(23BBA)	Any income of statutory authorities established for administration of public religious or charitable trusts or endowments, etc., subject to conditions.
6A.20	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.21	10(23BBF)	Any income of the North-Eastern Development Finance Corporation Limited, to the extent of 80% (for assessment year 2006-07)/60% (for assessment year 2007-08)/40% (for assessment year 2008-09)/20% (for assessment year 2009-10)/Nil % (for assessment year 2010-11), of the total income is to be excluded.
6A.22	10(23BBG)	Any income of the Central Electricity Regulatory Commission constituted u/s. 76(1) of the Electricity Act, 2003.
6A.23	10(23C)	Income of specified/approved funds, hospital or institution/approved hospital or institution and university or educational institution/approved university or educational institution, subject to conditions.
6A.24	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.25	10(23EA)	Any income, by way of contributions received from recognised stock exchanges and members thereof, of notified Investor Protection Fund set up by recognised stock exchanges in India, subject to condition.
6A.26	10(23EC)	Any income, by way of contributions received from commodity exchanges and the members thereof, of notified Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, subject to condition.
6A.27	10(25A)	Any income of Employees' State Insurance Fund.
6A.28	10(26) ⁴	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.29	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.30	10(26BB)	Any income of corporation established by Central/State Government for promoting the interests of the members of a notified minority community.
6A.31	10(26BBB)	Any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen (as defined in the <i>Explanation</i>) being the citizens of India.
6A.32	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.33	10(29A) ⁴	Any income accruing or arising to the Coffee Board, the Rubber Board, the Tea Board, the Tobacco Board, the Marine Products Export Development Authority, the Agricultural and Processed Food Products Export Development Authority, and the Spices Board.

4. For the notes on newly inserted sections 10(26AAA) & 10(26AAB) and amendment of section 10(29A) by the Finance Act, 2008, refer para 1.2, 1.5 & 1.3, respectively, on page 36.

<i>Para No.</i>	<i>Section</i>	<i>Nature of exemption</i>
6A.34	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.
6A.35	10(39)	Any specified income from the notified international sporting event held in India, arising to notified person(s), subject to conditions.
6A.36	10(40)	Any income of any subsidiary company by way of grant or otherwise received from a holding Indian company engaged in the business of generation or transmission or distribution of power, if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation, subject to condition.
6A.37	10(42) ⁵	Any notified specified income arising to a notified body or authority which has been established or constituted under or a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government and the body or authority is not for the purposes of profit.
<i>B. RELATING TO NON-RESIDENTS:</i>		
6B.1	10(4)	Refer Para 5.1 on page 206.
6B.2	10(4B)	Refer Para 5.2 on page 206.
6B.3	10(6)(viii)	Refer Para 1.4 on page 204.
6B.4	10(8)	Refer Para 1.7 on page 204.
6B.5	10(8A)	Refer Para 1.8 on page 204.
6B.6	10(8B)	Refer Para 1.9 on page 204.
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 2010-11.

DEDUCTIONS FROM THE GROSS TOTAL INCOME*CHAPTER VI-A***[From assessment year 2005-06 and onwards]**

Sections 80C 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. 80C to 80GGC are in respect of certain payments made by the assessee, the deductions u/s. 80-IA to 80RRB are in respect of certain incomes. It may be noted that, for the purpose of availing rebate of (deduction from) income-tax¹ u/s. 88 [but not u/s. 88B, 88C, 88D & 88E], the deductions under Chapter VI-A will be on gross total income as reduced by the long-term capital gain and short-term capital gain referred to in section 111A(1) [Refer item 7 on page 161] [Sections 112(2)/(3) & 111A(2)/(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. 80-IA to 80RRB will be computed and allowed in respect of such net income [Section 80AB].

In computing the total income of an assessee in relation to assessment year 2006-07 and subsequent assessment year, any deduction admissible under section 80-IA [for details, refer page 225], or section 80-IAB [for details, refer page 219], or section 80-IB [for details, refer pp. 226-227] or section 80-IC [for details, refer page 219] or section 80-ID, in relation to assessment year 2008-09 and subsequent years [for details, refer page 220] or section 80-IE, in relation to assessment year 2008-09 and subsequent years [for details, refer page 221], shall be allowed to him only if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if such return is furnished on or after the 'due date' specified u/s. 139(1), then such deduction will not be allowed in computing the total income [Section 80AC].

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.

1. Rebate of (deduction from) income-tax u/s. 88, 88B, 88C & 88D is available upto assessment year 2005-06 as said sections have been omitted w.e.f. 1-4-2006.

I. DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS:**(i) Deduction in respect of life insurance premia, contributions to provident fund, etc:**

(Refer Section 80C)

Assessment years 2006-07 to 2009-10:

Section 80C, w.e.f. 1-4-2006 (assessment year 2006-07 and onwards), provides that an assessee, being an individual or a Hindu undivided family, will be allowed a deduction from gross total income of an amount not exceeding Rs. 1,00,000, in respect of amount paid or deposited in the previous year in the specified savings listed in section 80C(2). It may be noted that the aggregate amount of deductions u/s. 80C, 80CCC & 80CCD shall not, in any case, exceed Rs. 1,00,000 [Section 80CCE, refer item (iv) on page 213].

Consequent to insertion of section 80C: (1) rebate of (deduction from) income-tax allowable u/s. 88 [Refer pp. 228-229] has been withdrawn from assessment year 2006-07 and onwards; (2) sections 10(10D), 54EC & 54ED, have been amended; and (3) provision is made that for the purposes of section 80C, clauses (i) to (vii), (xii) to (xiiia), (xiiic) to (xiva) & (xv) of section 88(2) shall be eligible for deduction under the corresponding provisions of section 80C and the deduction shall be allowed in accordance with the provisions of section 80C [vide section 80C(7)].

Specified savings qualifying for deduction from gross total income under section 80C(2)^{1a}:

Under section 80C(2)^{1a}, following sums paid or deposited by an individual/a Hindu undivided family, *at any time during the previous year*, qualifies for deduction u/s. 80C(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 80C(2)(i) read with section 80C(4)(a)].

Note: Amount of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, eligible amount for deduction 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 deduction]. In calculating the said capital sum assured, 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 80C(3)].

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 for a **deferred annuity** [other than annuity plan referred to in item 12 hereafter], 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 80C(2)(ii) read with section 80C(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 spouse or children, in so far as the sum so deducted does not exceed 1/5th of the salary [Section 80C(2)(iii)].

4. Contribution made by an individual to any **provident fund to which the Provident Funds Act, 1925 applies** [Section 80C(2)(iv)].

5. Contribution to **Public Provident Fund Scheme, 1968** [Vide Notification No. 1559 (E), dt. 3-11-2005: 279 ITR (St.) 7] 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 deduction; and

(b) in the case of a Hindu undivided family, any member thereof [Section 80C(2)(v) read with section 80C(4)(a)].

6. Contribution made by an employee to a **recognised provident fund** [Section 80C(2)(vi)].

7. Contribution by an employee to an **approved superannuation fund** [Section 80C(2)(vii)].

8. Subscription to any such security of the Central Government or any such deposit scheme as may be notified [Section 80C(2)(viii)].

9. Subscription to any such savings certificate as defined in section 2(c) of the Government Savings Certificates Act, 1959, as may be notified² [Section 80C(2)(ix)].

10. Contribution made, in the name of any person mentioned below, for participation in the **Unit-linked Insurance Plan, 1971 specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 —**

(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 80C(2)(x) read with section 80C(4)(a)].

11. 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** referred to in section 10(23D) [notified u/s. 10(23D), for assessment year 2006-07] [i.e., Dhanraksha, 1989 plan of the L.I.C. Mutual Fund. Notification No. 1561(E), dt. 3-11-2005: 279 ITR (St.) 7]:

(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 80C(2)(xi) read with section 80C(4)(a)].

12. Payment made to effect or to keep in force a **notified deferred annuity plan** of —

(a) Life Insurance Corporation [i.e., 'New Jeevan Dhara', 'New Jeevan Dhara-I', 'New Jeevan Akshay', 'New Jeevan Akshay-I', 'New Jeevan Akshay-II' Plans [Notification No. 1562(E), dt. 3-11-2005: 279 ITR (St.) 8]; Jeevan Akshay-III Plan [Notification No. S.O. 847(E), dt. 1-6-2006: 283 ITR (St.) 75], or

^{1a} For the notes on new clauses (xxiii) & (xxiv) inserted in section 80C(2) and insertion of section 80C(6A) by the Finance Act, 2008, refer para 5.1 on page 39.

² National Saving Certificates (VIII) Issue has been notified [Vide Notification No. 1560(E), dt. 3-11-2005: 279 ITR (St.) 7]. Table for accrued interest is given on page 229.

- (b) any other insurer [as defined in section 2(28BB)] [Section 80C(2)(xii)].
13. Subscription to any units of a Mutual Fund referred to in section 10(23D) [notified u/s. 10(23D), for assessment year 2006-07] or from the Administrator³ or the specified company³ under any plan formulated in accordance with notified scheme [i.e., Equity Linked Saving Scheme, 2005: Notification No. 1563(E), dt. 3-11-2005: 279 ITR (St.) 4] [Section 80C(2)(xiii)].
 14. Contribution by an individual to **notified pension fund**^{3a} set up by any Mutual Fund referred to in section 10(23D) [notified u/s. 10(23D), for assessment year 2006-07] or by the Administrator³ or the specified company³ [80C(2)(xiv)].
 15. Subscription to notified deposit scheme of the National Housing Bank [i.e., **Home Loan Account Scheme**⁴], or as a contribution to **notified pension fund set up by the National Housing Bank** [Section 80C(2)(xv)].
 16. Subscription to **notified deposit scheme of –**
 - (i) a public sector company which is engaged in providing long-term finance for construction or purchase of residential houses in India, or
 - (ii) 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 80C(2)(xvi)].
 17. 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 [Section 80C(2)(xvii) read with section 80C(4)(c)].
 18. Payment for the purposes of **purchase or construction of a residential house** property the income from which is chargeable to tax under the head “Income from house property”. For further details, refer item (b) of conditions hereafter [Section 80C(2)(xviii)].
 19. 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. For further details, refer item (d) of conditions on page 212 [Section 80C(2)(xix)].
 20. 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 80C(2)(xix)] of any company [Section 80C(2)(xx)].
 21. From assessment year 2007-08 and onwards, any sum deposited in accordance with a notified scheme^{4a} of term deposit for a fixed period of not less than 5 years with a scheduled bank [as defined in the *Explanation* to section 80C(2)(xxi)] [Section 80C(2)(xxi)].
 22. From assessment year 2008-09 and onwards, subscription to notified bonds^{4b} issued by the National Bank for Agriculture and Rural Development [Section 80C(2)(xxii)].

Conditions:

- (a) “Contribution” to any fund will not include any sums in repayment of loan taken from that fund [Section 80C(8)(ii)].
- (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.

It will also include re-payment of loan borrowed by the assessee from: (1) Central/State Government, or (2) any bank including a co-operative 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, or (8) 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 [Section 80C(2)(xviii)(c)].

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, cost of share and 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 80C(5), where, in any previous year, an assessee—

- (1) terminates contract of insurance referred to in item 1 on page 210, 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 10 & 11 on page 210, 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 above, 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) above,

then,

3. For the definition of term ‘Administrator’ and ‘specified company’, refer footnote Nos. 9 & 10 on page 214.

3a. Notified pension fund is ‘UTI-Retirement Benefit Pension Fund’ set up by the specified company³ [Vide Notification No. 1564(E), dt. 3-11-2005: 279 ITR (St.) 8].

4. 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).

4a. Notified scheme is the Bank Term Deposit Scheme, 2006 [Vide Notification No. S.O. 1220(E), dt. 28-7-2006 : 284 ITR (St.) 73].

4b. Notified bonds is NABARD Rural Bonds [Vide Notification No. S.O. 2227 (E), dt. 31-12-2007: 297 ITR (St.) 84].

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(i) no deduction is to be allowed with reference to any of the sums [referred to in items 1, 10, 11 & 18] paid in such previous year; and

(ii) the aggregate amount of the deductions of income so allowed in a previous year or in earlier previous year(s), shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(d) Under section 80C(6), if any equity shares or debentures, referred to in item 19 on page 211, with reference to the cost of which a deduction is allowed u/s. 80C(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 of income so allowed in respect of such equity shares or debentures in the previous year or earlier previous year(s) shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous 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 assessment year 2008-09, the gross total income of an individual, who is aged 50 years, is Rs. 8,50,000. The individual has: (a) made investment in specified savings referred to in section 80C(2) Rs. 95,000; and (b) paid or deposited in pension fund referred to in section 80CCC Rs. 12,000. Deduction u/s. 80C & 80CCC read with section 80CCE is as under:

Gross total income	.. .. .	Rs. 8,50,000
Less: Deductions under Chapter VI-A:		
(a) Deduction u/s. 80C:		
For investment in specified savings referred to in section 80C(2)		
Rs. 95,000, subject to ceiling limit of Rs. 1,00,000	.. .. .	Rs. 95,000
(b) Deduction u/s. 80CCC:		
For amount paid or deposited in pension fund referred to in section 80CCC Rs. 12,000, subject to ceiling limit of Rs. 1,00,000	.. .. .	Rs. 12,000
Aggregate deductions u/s. 80C & 80CCC	.. .. .	<u>Rs. 1,07,000</u>
Aggregate amount of deduction restricted u/s. 80CCE to Rs. 1,00,000	.. .. .	<u>Rs. 1,00,000</u>
Total (taxable) income for assessment year 2008-09	.. .. .	<u>Rs. 7,50,000</u>

(ii) Deduction in respect of contribution to certain pension funds:

(Refer Section 80CCC)

Assessment years 2005-06 to 2009-10:

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 Life Insurance Corporation of India or any other insurer⁵ 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) a rebate with reference to such amount shall not be allowed u/s. 88 in relation to assessment year 2005-06 and earlier years; & (b) deduction with reference to such amount shall not be allowed u/s. 80C in relation to assessment year 2006-07 and subsequent years [Section 80CCC(3)].

Amount of deduction:

Where such payment/deposit (excluding interest or bonus accrued/credited to the assessee's account, if any) –

For assessment years 2007-08 and onwards:

(1) does not exceed Rs. 1,00,000	.. .. .	the whole of such amount
(2) exceeds Rs. 1,00,000	.. .. .	Rs. 1,00,000.

Upto assessment year 2006-07:

(1) does not exceed Rs. 10,000	.. .. .	the whole of such amount
(2) exceeds Rs. 10,000	.. .. .	Rs. 10,000.

Note: The aggregate amount of deductions u/s. 80C, 80CCC & 80CCD shall not, in any case, exceed Rs. 1,00,000 [Section 80CCE, refer item (iv) on facing page].

5. Refer footnote No. 5b on facing page.

(iii) Deduction in respect of contribution to pension scheme of Central Government:

(Refer Section 80CCD)

*Assessment years 2005-06 to 2009-10:***Conditions:**

- (1) The assessee is an individual employed by the Central Government or any other employer on or after 1-1-2004;
- (2) the assessee (i.e., employee) 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. Pension scheme notified is vide Noti. No. 5/7/2003-ECB & PR, dt. 22-12-03 [271 ITR (St.) 143]; and
- (3) in the case of an assessee (i.e., employee) referred to in condition (1), the Central Government or any other employer makes any contribution to employee's account referred to in condition (2).

Amount of deduction:

In computing the total income of an assessee (employee): (a) the whole of the amount so paid or deposited [referred to in condition (2)]. The maximum limit for such deduction is 10% of his salary* in the previous year [Section 80CCD(1)]; and (b) the whole of the amount contributed by the Central Government or any other employer [referred to in condition (3)]. The maximum limit for such deduction is 10% of salary* of assessee (i.e., employee) in the previous year [Section 80CCD(2)].

*“Salary” for the purposes of section 80CCD, includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites [Explanation to section 80CCD].

It may be noted that the aggregate amount of deduction u/s. 80C, 80CCC & 80CCD shall not, in any case, exceed Rs. 1,00,000 [Section 80CCE, refer item (iv) hereafter].

- NOTES:** (1) Any amount standing to the credit of the assessee (i.e., employee) in his account referred to in condition (2) above, in respect of which a deduction has been allowed u/s. 80CCD(1)/(2), together with accruals thereon, if any, will be taxable in the previous year when the said assessee 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)].
- (2) Where any amount paid or deposited by the said assessee has been allowed as a deduction u/s. 80CCD(1): (a) no rebate with reference to such amount shall be allowed u/s. 88 in relation to assessment year 2005-06 and earlier years; & (b) no deduction u/s. 80C with reference to such amount shall be allowed in relation to assessment year 2006-07 and subsequent years [Section 80CCD(4)].

(iv) Aggregate amount of deductions u/s. 80C, 80CCC & 80CCD not to exceed Rs. 1,00,000:

(Refer Section 80CCE)

Assessment years 2006-07 to 2009-10:

The aggregate amount of deductions allowable under section 80C [Refer item (i) on page 210], section 80CCC [Refer item (ii) on facing page] and section 80CCD [Refer item (iii) above] shall not, in any case, exceed Rs. 1,00,000 [Refer Example on facing page].

(v) Deduction in respect of medical insurance premia:(Refer Section 80D^{5a})*Assessment years 2005-06 to 2008-09^{5a}:***Conditions:**

- (1) Medical insurance premia is paid by any mode of payment other than cash [is paid by cheque, upto assessment year 2007-08] 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^{5b} and approved by the Insurance Regulatory and Development Authority.

Amount of deduction:*For assessment year 2008-09:*

(a) where such premia does not exceed Rs. 15,000	the whole of such sum
(b) where such premia exceeds Rs. 15,000*	Rs. 15,000*.

Upto assessment year 2007-08:

(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. 16 on page 215)], the permissible deduction will be Rs. 20,000 (Rs. 15,000, upto assessment year 2007-08), instead of Rs. 15,000 (Rs. 10,000, upto assessment year 2007-08) [Proviso to section 80D(1)].

5a. For the notes on substituted section 80D by the Finance Act, 2008, refer para 5.2 on page 40.

5b. “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)].

(vi) Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability:

(Refer Section 80DD)

*Assessment years 2005-06 to 2009-10:***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,—
 - (a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent⁶, being a person with disability⁷, or
 - (b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer⁸ or the Administrator⁹ or the specified company¹⁰ subject to the conditions specified in (3) & (4) hereafter and approved by the Board in this behalf for the maintenance of a dependent⁶, being a person with disability⁷;
- (3) the scheme referred to in condition (2)(b) above provides for payment of annuity or lump sum amount for the benefit of a dependent⁶, being a person with disability⁷, 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 dependent⁶, being a person with disability⁷, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependent⁶, being a person with disability⁷; and
- (5) the assessee is required to furnish a copy of certificate issued by the medical authority¹¹ in the prescribed form¹², 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 authority¹¹ in the prescribed form¹², 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) above; or

(B) payment/deposit, referred to in condition (2)(b) above,

deduction is Rs. 50,000† during the previous year of expenditure incurred/payment or deposit of amount.

† Where such dependent is a person with severe disability⁷, the deduction will be Rs. 75,000, instead of Rs. 50,000 [Proviso to section 80DD(1)].

NOTE: If dependent, being a person with disability, 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.

6. “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.

7. “person with disability” means —

(A) 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 said section 2(t), “person with disability” means a person suffering from not less than 40% of any disability as certified by a medical authority;

(B) a person referred to in section 2(j) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. As per said section 2(j), “person with disability” means a person suffering from any of the conditions relating to autism, cerebral palsy, mental retardation or a combination of any two or more of such conditions and includes a person suffering from severe multiple disability.

“disability” means disability as defined —

(i) in section 2(i) of the Act referred to in (A) above. As per said section 2(i), disability means blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation & mental illness;

(ii) to include also “autism”, “cerebral palsy” and “multiple disability” referred to in section 2(a)/(c)/(h) of the Act referred to in (B) above.

“person with severe disability” means —

(a) a person with 80% or more of one or more disabilities, as referred to in section 56(4) of the Act referred to in (A) above;

(b) a person with severe disability referred to in section 2(o) of the Act referred to in (B) above. As per said section 2(o), “severe disability” means disability with 80% or more of one or more of multiple disabilities. As per section 2(h) of the said Act, “multiple disability” means a combination of two or more disabilities as defined in section 2(i) of the Act referred to in (A) above [For disability specified in the said section 2(i), refer (i) above].

8. Refer footnote No. 5b on page 213.

9. “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.

10. “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.

11. “medical authority” means a medical authority as specified in sub-rule (1) of substituted rule 11A. However, upto 28-6-05, “medical authority” means —

(a) the medical authority as referred to in section 2(p) of the Act referred to in footnote No. 7(A) above. As per said section 2(p), “medical authority” means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government;

(b) the medical authority as is notified by the Central Government for certifying “autism”, “cerebral palsy”, multiple disabilities”, “person with disability” & “severe disability” referred to in section 2(a)/(c)/(h)/(i)/(j)/(o) of the Act referred to in footnote No. 7(B) above.

12. As per Rule 11A, the certificate to be issued by the medical authority referred to in footnote No. 11(a) is in the form prescribed as per Notification No. 16-18/97-NI-1, dt. 1-6-2001 and dt. 18-2-2002. As per sub-rule (2) of substituted rule 11A, w.e.f. 29-6-05, the certificate to be issued by the medical authority referred to in footnote No. 11(b), is in the prescribed Form No. 10-1A, where the person is suffering from autism, cerebral palsy or multiple disabilities, and in the case of any other person, in the prescribed form stated in earlier sentence.

(vii) Deduction in respect of medical treatment, etc.:

(Refer Section 80DDB)

*Assessment years 2005-06 to 2009-10:***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 rule 11DD(1)¹³ 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 dependant¹⁴, 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 haematologist, an immunologist or such other specialist, as is prescribed in rule 11DD(2), working in a Government hospital¹⁵.

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 citizen¹⁶, 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 insurer¹⁷, 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.

(viii) Deduction in respect of interest on loan taken for higher education:

(Refer Section 80E)

*Assessment years 2006-07 to 2009-10:***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 interest on loan (*and not repayment of loan*), taken by him from any financial institution (including bank)¹⁸ or any approved charitable institution¹⁹ for the purpose of pursuing his higher education²⁰ or in relation to assessment year 2008-09 and subsequent years, for the purpose of higher education of his relative^{20a} also; and
- (3) upto assessment year 2007-08, deduction is not allowable to parent/guardian of the assessee but to the assessee (i.e., student) himself [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 deduction will be allowed @100% of the interest paid on loan (*and not repayment of loan*) taken, referred to in condition (2) above, without any monetary ceiling limit. Such deduction is allowable from gross total income of the initial assessment year²¹ and for 7 successive assessment years or until the interest on such loan is paid by the assessee in full, whichever is earlier.

(ix) Deduction in respect of repayment of loan taken for higher education:

(Refer Section 80E)

Assessment year 2005-06:*

* From assessment year 2006-07 and onwards, deduction in respect of interest on loan (and not repayment of loan) taken for higher education will be allowed under substituted section 80E [Refer item (viii) above].

13. Specified diseases or ailments under rule 11DD, 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) Hemiballisms, (g) Aphasia & (h) Parkinsons disease; (ii) Malignant cancers; (iii) Full blown acquired immuno-deficiency syndrome (AIDS); (iv) Chronic renal failure; and (v) Hematological disorders: (1) Hemophilia & (2) Thalassaemia.

14. “Dependant” 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, dependant wholly or mainly on such individual or HUF for his support and maintenance.

15. “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.

16. “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].

17. “Insurer” shall have the meaning assigned to it in section 2(9) of the Insurance Act, 1938.

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 approved by the prescribed authority [upto assessment year 2007-08, 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].

20a. “relative” is defined to mean the spouse and children of the individual.

21. “Initial assessment year” means assessment year relevant to previous year, in which the assessee starts paying interest on loan.

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)²² or any approved charitable institution²³ for the purpose of pursuing his higher education²⁴, or interest on such loan; and
- (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 year²⁵ and for seven successive assessment years or till the loan/interest thereon [referred to in condition (2) above] is repaid in full, whichever is earlier.

(x) Deduction in respect of donations to certain funds, charitable institutions, etc.:

(Refer Section 80G)

Assessment years 2005-06 to 2009-10:

Conditions:

(1) The qualifying amount of aggregate donations under sub-items (q) & (u) of item (2) (B) given below and items (3) to (5) given on page 217 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)(iia)],
- (b) to the Prime Minister's Armenia Earthquake Relief Fund [Sec. 80G(2)(a)(iiaa)],
- (c) to the Africa (Public Contribution-India) Fund [Sec. 80G(2)(a)(iiab)],
- (d) to the National Foundation for Communal Harmony [Sec. 80G(2)(a)(iiic)],
- (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)(iiha)],
- (i) to any fund set up by a State Government to provide medical relief to the poor [Sec. 80G(2)(a)(iihb)],
- (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)(iihc)],
- (k) to the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996 [Sec. 80G(2)(a)(iihd)],
- (l) to the National Illness Assistance Fund [Sec. 80G(2)(a)(iihe)],
- (m) to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory [Sec. 80G(2)(a)(iihf)],
- (n) to the National Sports Fund to be set up by the Central Government [Sec. 80G(2)(a)(iihg)],
- (o) to the National Cultural Fund set up by the Central Government [Sec. 80G(2)(a)(iihh)],
- (p) to the Fund for Technology Development and Application set up by the Central Government [Sec. 80G(2)(a)(iihi)],
- (q) by a company to the Indian Olympic Association or to any other association/institution established in India and notified 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)],

22. Refer footnote No. 18 on page 215.

23. Refer footnote No. 19 on page 215.

24. Refer footnote No. 20 on page 215.

25. "Initial assessment year" means assessment year relevant to previous year, in which the assessee starts paying the loan or interest thereon.

(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 [Sec. 80G(2)(a)(iih)],

(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)];

(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)];

(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 sports²⁶ will be regarded as donations made to institutions established in India for a charitable purpose and will qualify for deduction u/s. 80G [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 facing page 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)].

(xi) Deduction in respect of rents paid:

(Refer Section 80GG)

Assessment years 2005-06 to 2009-10:

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 87) 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, who is aged 60 years, pays rent of Rs. 4,000 per month. His gross total income for the assessment year 2008-09 is Rs. 1,67,000. Deduction u/s. 80GG is to be claimed as explained hereunder:

Gross total income	Rs.	1,67,000

Less: Deductions under Chapter VI-A:

(1) For life insurance premia paid (section 80C)	Rs.	12,000

(2) Mediclaim insurance premia (section 80D)	Rs.	5,000	Rs.	17,000

Base for deduction under section 80GG ^{26a} carried over	Rs.	1,50,000

26. For notified games and sports, refer Notification No. S.O. 1246 (E), dt. 29-11-2002: 259 ITR (St.) 68.

26a. Refer footnote No. 27 on page 218.

Base for deduction under section 80GG ²⁷ brought over	..	..	..	..	Rs.	1,50,000
Rent paid (Rs. 4,000 × 12 months)	..	..	..	..	Rs.	48,000
Less: 10% of Rs. 1,50,000 ²⁷ as computed above	..	..	..	..	Rs.	15,000
Rent paid in excess	..	..	..	..	Rs.	33,000
(1) Rent paid in excess	..	..	..	..	Rs.	33,000
(2) 25% of total income viz. Rs. 1,50,000 ²⁷	..	..	..	..	Rs.	37,500
(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 ²⁸					Rs.	²⁸ 24,000
Taxable income	..					<u>Rs. 1,26,000</u>

(xii) Deduction in respect of certain donations for scientific research or rural development:

(Refer Section 80GGA)

*Assessment years 2005-06 to 2009-10:***Conditions:**

Any sum paid by an assessee in the previous year to —

(1) 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) 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) 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) 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) 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) a rural development fund set up and notified by the Central Government for the purposes of section 35CCA(1)(c),

(6) 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. referred to in conditions

(1) to (6) above the whole of such amount.

(xiii) 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.

(xiv) 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 artificial 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.

27. Under *Explanation* to section 80GG, the base to be adopted in this *Example* for deduction under section 80GG is Rs. 1,50,000. The gross total income in this *Example* is Rs. 1,67,000 and the total income is Rs. 1,26,000. 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].

28. Deduction u/s. 80GG will be allowed subject to the condition that Mr. A files the declaration in Form No. 10BA.

II. DEDUCTIONS IN RESPECT OF CERTAIN INCOMES:**(xv) Deduction in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.:**

(Refer Section 80-IA)

Assessment year 2005-06 & 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 225 in relation to assessment year 2008-09 and subsequent years [for assessment year 2005-06, refer Chart-I on page 233 of ITRR 2005-06 (67th Year of Publication); for assessment year 2006-07, refer Chart-I on page 241 of ITRR 2006-07 (68th Year of Publication); for assessment year 2007-08, refer Chart-I on page 231 of ITRR 2007-08 (69th Year of Publication)].

(xvi) Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings:

(Refer Section 80-IB)

Assessment year 2005-06 & 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. 226-227 in relation to assessment year 2008-09 and subsequent years [for assessment year 2005-06, refer Chart-II on pp. 234-235 of ITRR 2005-06 (67th Year of Publication); for assessment year 2006-07, refer Chart-II on pp. 242-243 of ITRR 2006-07 (68th Year of Publication); for assessment year 2007-08, refer Chart-II on pp. 232-233 of ITRR 2007-08 (69th Year of Publication)].

(xvii) Deduction in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone:

(Refer Section 80-IAB)

W.e.f. 10-2-2006²⁹ (i.e., assessment year 2006-07 & onwards):

Where the gross total income of an assessee, being a developer³⁰, includes profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone³¹ (SPEZ), which is notified on or after 1-4-2005 under the Special Economic Zones Act, 2005, a deduction will be allowed @100% of the profits and gains from such business for 10 consecutive assessment years [Sec. 80-IAB(1)].

The assessee has option to claim the deduction for any 10 consecutive assessment years out of 15 years beginning from the year in which a SPEZ³¹ has been notified by the Central Government. This period of 10 consecutive assessment years is to be reduced by the period of deduction availed of u/s. 80-IA in earlier years. Where a developer³⁰ who develops a SPEZ³¹ on or after 1-4-2005 and transfers operation and maintenance of such SPEZ³¹ to another developer (i.e., transferee developer), then deduction u/s. 80-IAB(1) will be allowed to such transferee developer for the remaining period of 10 consecutive assessment years as if the operation and maintenance were not so transferred to the transferee developer [Sec. 80-IAB(2)].

The provisions of sub-section (5) and sub-sections (7) to (12) of section 80-IA will apply to SPEZ³¹ for the purpose of allowing deductions u/s. 80-IAB(1) [Sec. 80-IAB(3)].

It may be noted that, in computing the total income of an assessee, deduction admissible u/s. 80-IAB will be allowed to him only if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if the return is furnished after the 'due date' specified u/s. 139(1), then deduction u/s. 80-IAB will not be allowed in computing the total income [Section 80AC].

(xviii) Special provisions in respect of certain undertakings or enterprises in certain special category States:

(Refer Section 80-IC)

*Assessment years 2005-06 to 2009-10:***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 States³² 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 expansion³³, during the period specified in condition (2) hereafter,
 - (b) not being any article or thing specified in the Thirteenth Schedule or where such undertaking or enterprise undertakes substantial expansion³³, during the period specified in condition (2) hereafter, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial

29. Vide Notification No. S.O. 196(E), dt. 10-2-2006: 281 ITR (St.) 2.

30. "Developer" is defined to mean a person who, or a State Government which, has been granted by the Central Government a letter of approval u/s. 3(10) and includes an Authority and co-developer [Vide *Explanation* to section 80-IAB read with section 2(g) of the Special Economic Zones Act, 2005].

31. "Special Economic Zone" is defined to mean each Special Economic Zone notified under the proviso to section 3(4) and section 4(1) (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone [Vide *Explanation* to section 80-IAB read with section 2(z) of the Special Economic Zones Act, 2005].

32. "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.

33. "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.

Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as is notified³⁴ 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) on page 219,—
 - (a) in the State of Sikkim, is the period beginning on 23-12-2002 and ending before 1-4-2007,
 - (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^{34a}, 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^{34a}, is @100% of such profits and gains for 10 assessment years commencing with the initial assessment year³⁵, 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 year³⁵ and thereafter @25% [@30%, in the case of a company] for next five assessment years, of the profits and gains.

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.

Further, in relation to assessment year 2006-07 and onwards, in computing the total income of an assessee, deduction admissible u/s. 80-IC will be allowed to him only if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if the return is furnished after the 'due date' specified u/s. 139(1), then deduction u/s. 80-IC will not be allowed in computing the total income [Section 80AC].

(xix) Deduction in respect of profits and gains from business of hotels and convention centres in specified area:

(Refer Section 80-ID^{35a})

Assessment years 2008-09 & 2009-10:

Conditions:

- (1) The undertaking is engaged in the eligible business of,—
 - (a) hotel³⁶ located in the specified area³⁷ and such hotel is constructed and has started or starts functioning at any time during the period beginning on 1-4-2007 and ending on 31-3-2010, or
 - (b) building, owning and operating a convention centre³⁸, located in the specified area³⁷ and such convention centre is constructed at any time during the period beginning on 1-4-2007 and ending on 31-3-2010;
- (2) The eligible business referred to in condition (1) above, is not formed by—
 - (a) the splitting up, or the reconstruction, of a business already in existence,
 - (b) the transfer to a new business of a building previously used as a hotel or a convention centre, as the case may be,
 - (c) the transfer to a new business of machinery or plant previously used for any purpose. It may be noted that the provisions of *Explanation 1 & 2* to section 80-IA(3) shall apply to this condition as they apply for the purposes of section 80-IA(3)(ii); and
- (3) The assessee is required to furnish along with the return of income, the report of an audit in Form No. 10CCBBA, and duly signed and verified by an accountant, as defined in the *Explanation* to section 288(2), certifying that the deduction has been correctly claimed.

34. For industrial estate or industrial area notified in: (a) the State of Sikkim [Refer Notification 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 Notification S.O. No. 400(E), dt. 26-3-2004: 266 ITR (St.) 118]; (c) the state of Himachal Pradesh [Refer Notification S.O. No. 1269 (E), dt. 4-11-2003: 264 ITR (St.) 145]; and (d) the State of Uttaranchal [Refer Notification S.O. No. 741 (E), dt. 28-6-2004 : 269 ITR (St.) 63 and amended by Notification S.O. No. 616 (E), dt. 26-4-2006 : 283 ITR (St.) 6].

34a. Refer footnote No. 32 on page 219.

35. "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.

35a. For the notes on amendment of section 80-ID by the Finance Act, 2008, refer para 5.4 on page 41.

36. 'hotel' is defined to mean a hotel of two-star, three-star or four-star category as classified by the Central Government.

37. 'specified area' is defined to mean the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.

38. 'convention centre' is defined to mean a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as prescribed in rule 18DE of the Income-tax Rules, 1962.

Percentage of deduction:

@ 100% of the profits and gains, derived by an undertaking from the eligible business referred to in condition (1) on facing page, for 5 consecutive assessment years beginning from the initial assessment year³⁹.

- NOTES:** (1) In computing the total income of the assessee, no deduction will be allowed under any other section contained in Chapter VI-A or section 10AA, in relation to the profits and gains of the undertaking.
- (2) The provisions contained in sub-sections (5) & (8) to (11) of section 80-IA will apply to the eligible business referred to in condition (1) on facing page.
- (3) In computing the total income of an assessee, deduction admissible u/s. 80-ID will be allowed to him if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if the return is furnished after the 'due date' specified u/s. 139(1), then deduction u/s. 80-ID will not be allowed in computing the total income [Section 80AC].

(xx) Special provisions in respect of certain undertakings in North-Eastern States:

(Refer Section 80-IE)

Assessment years 2008-09 & 2009-10:

Conditions:

(1) The undertaking has, during the period beginning on 1-4-2007 and ending before 1-4-2017, begun or begins, in any North-Eastern States⁴⁰,—

- (a) to manufacture or produce any eligible article or thing⁴¹,
- (b) to undertake substantial expansion⁴² to manufacture or produce any eligible article or thing⁴¹,
- (c) to carry on any eligible business⁴³;

(2) The undertaking is not formed by splitting up, or the reconstruction, of a business already in existence. It may be noted that this condition will not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in section 33B; and

(3) The undertaking is not formed by the transfer to a new business of machinery or plant previously used for any purpose. It may be noted that the provisions of *Explanations* 1 & 2 to section 80-IA(3) shall apply to this condition as they apply for the purposes of section 80-IA(3)(ii).

Percentage of deduction:

@ 100% of the profits and gains, derived by an undertaking referred to in condition (1) above, for 10 consecutive assessment years commencing with the initial assessment year⁴⁴.

- NOTES:** (1) In computing the total income of the assessee, no deduction will be allowed under any other section contained in Chapter VI-A or in section 10A or section 10AA or section 10B or section 10BA, in relation to the profits and gains of the undertaking.
- (2) No deduction will be allowed to any undertaking u/s. 80-IE, where the total period of deduction inclusive of the period of deduction u/s. 80-IE, or u/s. 80-IC or under the 2nd proviso to section 80-IB(4) or u/s. 10C, as the case may be, exceeds 10 assessment years.
- (3) The provisions contained in sub-sections (5) & (7) to (12) of section 80-IA will apply to the eligible undertaking referred to in condition (1) above.
- (4) In computing the total income of an assessee, deduction admissible u/s. 80-IE will be allowed to him if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if the return is furnished after the 'due date' specified u/s. 139(1), then deduction u/s. 80-IE will not be allowed in computing the total income [Section 80AC].

39. 'initial assessment year' : (a) in the case of a hotel, means the assessment year relevant to the previous year in which the business of the hotel starts functioning; & (b) in the case of a convention centre, means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis.

40. 'North-Eastern States' means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizorm, Nagaland, Sikkim and Tripura.

41. 'eligible article or thing' means the article or thing other than: (a) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985, which pertains to tobacco and manufactured tobacco substitutes; (b) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985; (c) plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests vide Notification No. S.O. 705(E), dt. 2-9-1999 & S.O. 698(E), dt. 17-6-2003; and (d) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985, produced by petroleum oil or gas refineries.

42. 'substantial expansion' means increase in the investment in the plant and machinery by at least 25% 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.

43. 'eligible business' means business of: (a) hotel (not below two-star category); (b) adventure and leisure sports including ropeways; (c) providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds; (d) running an old-age home; (e) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training; (f) running information technology related training centre; (g) manufacturing of information technology hardware; and (h) bio-technology.

44. 'initial assessment year' means the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion.

(xxi) Deduction in respect of profits and gains from business of collecting and processing bio-degradable waste:

(Refer Section 80JJA)

Assessment years 2005-06 to 2009-10:

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.

(xxii) Deduction in respect of employment of new workmen:

(Refer Section 80JJAA)

*Assessment years 2005-06 to 2009-10:***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.

(xxiii) Deductions in respect of interest on certain securities, dividends, etc.:

(Refer Section 80L)

*Assessment year 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,
- (c) dividends from any co-operative society,
- (d) interest on deposits⁴⁵ with a banking company, and co-operative Bank,
- (e) interest on deposits with a co-operative society made by a member of the society,
- (f) interest on deposits with Housing Boards, etc.,
- (g) interest from deposits made under A.E.(C.D.) Act, and C.D.S. (I.T.P) Act,
- (h) interest on notified debentures of any co-operative society or any institution or any public sector company,
- (i) 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),
- (j) 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),
- (k) interest on deposits with Industrial Development Bank of India [Notification No. G.S.R. 86(E), dt. 29-2-1984],
- (l) interest on deposits under National Deposit Scheme [Notification No. G.S.R. 453(E), dt. 15-6-1984],
- (m) interest on deposits under Post Office (Monthly Income Account) Rules, 1987.

Limit of deduction:

Assessment year
2005-06**

.. Under section 80L(1)

Maximum deduction
Rs. 12,000

* Refer *marked para on facing page.

** Section 80L is omitted w.e.f. 1-4-2006 (assessment year 2006-07 and onwards) and hence deduction is not available in respect of interest on securities, banks, etc. from the said assessment year.

45. Accrued interest on reinvestment deposit scheme of banks qualifies for deduction [Vide Circular No. 243, dt. 22-6-78: 114 ITR (St.) 29].

***Additional deduction:**

2005-06 .. In respect of interest on security of the Central/State Government [Vide proviso to section 80L(1)] Rs. 3,000

For the manner and method of availing deduction u/s. 80L in respect of assessment year 2005-06, refer *Examples* on page 227 of ITRR 2005-06 (67th Year of Publication).

(xxiv) Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre:

(Refer Section 80LA)

W.e.f. 10-2-2006[†] (i.e., assessment year 2006-07 & onwards):

Conditions:

(1) The assessee is either: (i) a scheduled bank, or, any bank incorporated by or under the laws of a country outside India; and having an offshore banking unit in a Special Economic Zone⁴⁶ (SPEZ); or (ii) a unit⁴⁷ of an International Financial Services Centre⁴⁸ (IFSC);

(2) the income: (a) from an offshore banking unit in a SPEZ⁴⁶; or (b) from the business referred to in section 6(1) of the Banking Regulation Act, 1949, with an undertaking located in a SPEZ⁴⁶ or any other undertaking which develops, develops and operates or develops, operates and maintains a SPEZ⁴⁶; or (c) from any unit of the IFSC⁴⁸ from its business for which it has been approved for setting up in such a Centre in a SPEZ⁴⁶; and

(3) the assessee is required to furnish along with the return of income: (a) in the prescribed Form No. 10CCF, the report of an accountant as defined in the *Explanation* to section 288, 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 the income referred to in condition (2) above for 5 consecutive assessment years beginning with the assessment year relevant to previous year in which the permission, u/s. 23(1)(a) of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other law, was obtained, and thereafter @ 50% of such income for 5 consecutive assessment years.

(xxv) Deduction in respect of certain incomes of Offshore Banking Units:

(Refer Section 80LA)

Assessment year 2005-06:*

** From assessment year 2006-07 onwards, deduction in respect of incomes of Offshore Banking Units will be allowed under substituted section 80LA [Refer preceding item (xxiv)].*

Conditions:

(1) The assessee is either a scheduled bank (other than a bank incorporated by or under the laws of a country outside India) 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) is 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 3 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 2 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 the then section 80LA.

(xxvi) Deduction in respect of income of co-operative societies:

(Refer Section 80P)

(Refer page 255 for exemptions and example)

(xxvii) Deduction in respect of royalty income, etc. of authors of certain books other than text books:

(Refer Section 80QQB)

Assessment years 2005-06 to 2009-10:

Conditions:

(1) The assessee is an individual resident in India, being an author⁴⁹;

(2) assessee's gross total income includes any income, derived in the exercise of his profession, on account of any lump sum⁵⁰ consideration for the assignment or grant of any of his interests in the copyright of any book⁵¹ 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;

[†] Vide Notification No. S.O. 196(E), dt. 10-2-2006: 281 ITR (St.) 2.

46. “Special Economic Zone” is defined to mean each Special Economic Zone notified under the proviso to section 3(4) and section 4(1) (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone [Vide section 2(z) of the Special Economic Zone Act, 2005 (SPEZ Act) read with *Explanation* to section 80LA].

47. “Unit” is defined to mean a unit set up by an entrepreneur in a SPEZ and includes existing unit, an offshore banking unit and a unit in an International Financial Services Centre, whether established before or established after the commencement of the SPEZ Act [Vide section 2(zc) of the SPEZ Act read with *Explanation* to section 80LA].

48. “International Financial Services Centre” is defined to mean an International Financial Services Centre which has been approved by the Central Government u/s. 18(1) [Vide section 2Q of the SPEZ Act read with *Explanation* to section 80LA].

49. “author” is defined to include a joint author.

50. “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.

51. “books” is defined not to include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools, tracts and other publications of similar nature, by whatever named called.

(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) on page 223 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 authority⁵² 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 authority⁵³ along with the return of income in the prescribed manner.

Amount of deduction:

@ 100% of income referred to in condition (2) on page 223, subject to monetary limit of Rs. 3,00,000.

For calculating the deduction u/s. 80QQB, 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.

(xxviii) Deduction in respect of royalty on patents:

(Refer Section 80RRB)

Assessment years 2005-06 to 2009-10:

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 authority⁵⁴ 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 prescribed⁵⁵ 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.

(xxix) Deduction in the case of a person with disability:

(Refer Section 80U)

Assessment years 2005-06 to 2009-10:

Conditions:

- (1) The individual is resident in India;
- (2) such individual, at any time during the previous year, is certified by the medical authority⁵⁶ to be a person with disability⁵⁷; and
- (3) he is required to furnish a copy of the certificate issued by the medical authority⁵⁶, in the prescribed form⁵⁸ 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 disability⁵⁹ 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 authority⁵⁶ in the prescribed form⁵⁸, and a copy thereof is furnished along with the return of income u/s. 139.

Amount of deduction:

Assessment years 2005-06 to 2009-10 Rs. 50,000* in computing the total income of such individual.

*Where such individual is a person with severe disability⁶⁰, the deduction will be Rs. 75,000, instead of Rs. 50,000 [Proviso to section 80U(1)].

52. "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.

53. 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.

54. Refer footnote No. 52 above.

55. Refer footnote No. 53 above.

56. Refer footnote No. 11 on page 214.

57. Refer footnote No. 7 on page 214.

58. Refer footnote No. 12 on page 214.

59. Refer para 2 of footnote No. 7 on page 214.

60. Refer para 3 of footnote No. 7 on page 214.

**CHART I: FOR DEDUCTION U/S. 80-IA IN CASE OF
INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS/ENTERPRISES:
(Assessment year 2008-09¹ and onwards)**

<i>Nature of business activity</i>	<i>Period of commencement of operation</i>	<i>No. of consecutive assessment years for which deduction admissible</i>	<i>Rate of deduction from profits & gains@</i>
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 31-3-2005	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 ⁶ [Sec. 80-IA(4)(iii)]	For industrial park, 1-4-1997 to 31-3-2009; For special economic zone, 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 31-3-2010	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 31-3-2010	10 out of 15 initial assessment years ⁵	100% ⁴ for 10 consecutive assessment years.
6. An undertaking which undertakes substantial renovation and modernisation ⁷ of the existing network of transmission or distribution lines [Sec. 80-IA(4)(iv)(c)]	1-4-2004 to 31-3-2010	10 out of 15 initial assessment years ⁵	100% ⁴ for 10 consecutive assessment years.
7. An undertaking owned by an Indian company formed before 30-11-2005 & notified before 31-12-2005 and set up for reconstruction or revival of a power generating plant, subject to condition [Sec. 80-IA(4)(v)]	generate or transmit or distribute power before 31-3-2008	10 out of 15 initial assessment years ⁵	100% ⁴ for 10 consecutive assessment years.
8. Any undertaking carrying on the business of laying & operating a cross-country natural gas distribution network, including pipelines & storage facilities being an integral part of such network, subject to conditions [Sec. 80-IA(4)(vi)]	on or after 1-4-2007	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)(ii)/(iv)/(vi) [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 assessment 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)]. Provisions to section 80-IA shall not apply to a person who executes a works contract entered into with the undertaking/enterprise referred to in section 80-IA [Explanation to section 80-IA].

In computing the total income of an assessee, deduction admissible u/s. 80-IA and/or 80-IB will be allowed to him only if he furnishes a return of income for such assessment year on or before the 'due date' specified in section 139(1). In other words, if such return is furnished after the 'due date' specified u/s. 139(1), then deduction under the said section(s) will not be allowed in computing the total income [Section 80AC].

† 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; & (3) in the case of hospital referred to in section 80-IB(11B) report of audit in the prescribed Form No. 10CCBC.

1. For deduction u/s. 80-IA in relation to: (a) assessment year 2005-06, refer Chart-I on page 233 of ITRR 2005-06; (b) for assessment year 2006-07, refer Chart-I on page 241 of ITRR 2006-07; and (c) for assessment year 2007-08, refer Chart-I on page 231 of ITRR 2007-08.

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, inland port or navigational channel in the sea [Explanation to section 80-IA(4)(i)]. Also refer gist of Circular No. 7 given in sub-item K(3) of item I on page 340.

* 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. 10, dt. 16-12-2005: 280 ITR (St.) 1].

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)].

6. Notified scheme is: (a) Industrial Park Scheme, 2008 [Noti. No. 51(E), dt. 8-1-08; 297 ITR (St.) 66] in relation to period of commencement of operation between 1-4-2006 & 31-3-2009; (b) Special Economic Zones [Noti. No. 100(E), dt. 24-1-02; 255 ITR (St.) 107]. It may be noted that provisions of sec. 80-IA are not applicable to any Special Economic Zone notified on or after 1-4-2005 [Sec. 80-IA(13)].

7. “Substantial renovation and modernisation” is defined to mean an increase in the plant and machinery in the network of transmission or distribution lines by at least 50% of the book value of such plant and machinery as on 1-4-2004.

**CHART II: FOR DEDUCTION U/S. 80-IB IN CASE OF
INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS:
(Assessment year 2008-09⁸ and onwards)^{8a}**

<i>Nature of business activity</i>	<i>Period of commencement of operation</i>	<i>No. of consecutive assessment years for which deduction admissible</i>	<i>Rate of deduction from profits & gains@</i>
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% ⁹ (30% ⁹ in case of a company) for 10 (12 in case of co-op. society) initial asst. years ¹⁰ .
2. A small-scale industrial undertaking ¹¹ 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% ⁹ (30% ⁹ in case of a company) for 10 (12 in case of co-op. society) initial asst. years ¹⁰ .
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)] ¹²	1-4-1993 to 31-3-2004 ¹³	12 (for co-op. society) & 10 (for others)	100% ⁹ for 5 initial asst. years ¹⁰ & 25% ⁹ (30% ⁹ in case of a company) for the remaining asst. years ¹⁰ .
4. An industry referred to in 3 above if located in notified* North-Eastern Region ¹¹ [2nd proviso to sec. 80-IB(4)] ¹²	1-4-1993 to 31-3-2004	10 (in all cases)	100% ⁹ for 10 initial asst. years ¹⁰ .
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% ⁹ for 5 initial asst. years ¹⁰ & 25% ⁹ (30% ⁹ in case of a company) for the remaining asst. years ¹⁰ .
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% ⁹ for 3 initial asst. years ¹⁰ & 25% ⁹ (30% ⁹ in case of a company) for the remaining asst. years ¹⁰ .
7. An industrial undertaking deriving profit from the business of setting up and operating a cold chain facility ¹¹ for agricultural produce [Sec. 80-IB(11)]	1-4-1999 to 31-3-2004	12 (for co-op. society) & 10 (for others)	100% ⁹ for 5 initial asst. years ¹⁰ & 25% ⁹ (30% ⁹ in case of a company) for the remaining asst. years ¹⁰ .
8. An undertaking which begins commercial production of mineral oil — (a) located in North-Eastern Region ¹¹ (b) located in any part of India [read with 1st proviso to sec. 80-IB(9)]	Before 1-4-1997 On or after 1-4-1997	7 (in all cases) 7 (in all cases)	100% ⁹ for 7 initial asst. years ¹⁰ . 100% ⁹ for 7 initial asst. years ¹⁰ .
9. An undertaking which begins refining of mineral oil [read with 2nd proviso to sec. 80-IB(9) ^{8a}]	On or after 1-10-1998	7 (in all cases)	100% ⁹ for 7 initial asst. years ¹⁰ .
10. An undertaking developing and building housing projects approved <i>before 31-3-2007</i> 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 maximum built-up area ^{11/14} 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)]	Dev. & const. of housing project (HP) commenced on or after 1-10-1998 and completes such const. in a case where a HP has been or is approved by the local authority (LA): (a) before 1-4-04, on or before 31-3-08; (b) on or after 1-4-04, within 4 years from the end of the financial year in which the HP is approved by the LA	—	100% of the profits derived in any previous year relevant to any assessment year from such housing project

For the notes, refer page 225.

8. For deduction u/s. 80-IB in relation to: (a) assessment year 2005-06, refer Chart-II on pp. 234-235 of ITRR 2005-06; (b) for assessment year 2006-07, refer Chart-II on pp. 242-243 of ITRR 2006-07; and (c) for assessment year 2007-08, refer Chart-II on pp. 232-233 of ITRR 2007-08.

8a. For the notes on amendment made in section 80-IB(9) and insertion of section 80-IB(11C) by the Finance Act, 2008, refer para 5.3 on page 40.

9. of profits and gains from such business.

10. "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)].

11. Refer footnote No. 19 on facing page.

12. Deduction u/s. 80-IB(4) will not be allowed to those undertakings eligible for deduction u/s. 80-IC(2) [Refer item (xviii) on page 219] [vide 3rd proviso to section 80-IB(4)].

13. 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 31-3-2012 [4th proviso to section 80-IB(4)]. Deduction will not 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 [5th proviso to section 80-IB(4)].

14. The built-up area of the shops & other commercial establishments included in the housing project does not exceed 5% of the aggregate built-up area of the housing project or 2000 Sq. ft., whichever is less.

§ 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].

§ The condition of size of plot of land has a minimum area of 1 acre and dev. & const. of housing project (HP) mentioned above will not apply in the case of a HP carried out in accordance with a scheme framed by the Central/State Govt. for reconstruction or redevelopment of existing buildings in areas declared to be slum areas under any law and notified by the Board in this behalf [Proviso to section 80-IB(10)].

**CHART II: FOR DEDUCTION U/S. 80-IB IN CASE OF INDUSTRIAL UNDERTAKINGS
OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS (CONTD.):
(Assessment year 2008-09¹⁵ and onwards)**

<i>Nature of business activity</i>	<i>Period of commencement of operation</i>	<i>No. of consecutive assessment years for which deduction admissible</i>	<i>Rate of deduction from profits & gains@</i>
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% ¹⁶ for 10 initial asst. years ¹⁷ .
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)], (b) after 31-3-2000 but before 1-4-2007 and fulfils condition of rule 18DA of I.T. Rules [Sec. 80-IB(8A)]	— —	5 (in case of company only) 10 (in case of company only)	100% ¹⁶ for 5 initial asst. years ¹⁷ . 100% ¹⁶ for 10 initial asst. years ¹⁷ .
13. The business of a hotel ¹⁸ is approved by the prescribed authority — (a) located in a hilly area ¹⁹ or a rural area ¹⁹ or a place of pilgrimage ¹⁹ or a notified place [Sec. 80-IB(7)(a)] (b) located in a hilly area ¹⁹ or a rural area ¹⁹ or a place of pilgrimage ¹⁹ 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)] (c) located in any place other than those mentioned in (a) & (b) above [Sec. 80-IB(7)(b)] (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)]	1-4-1990 to 31-3-1994 1-4-1997 to 31-3-2001 1-4-1991 to 31-3-1995 1-4-1997 to 31-3-2001	10 (in case of company only) 10 (in case of company only) 10 (in case of company only) 10 (in case of company only)	50% ¹⁶ for 10 initial asst. years ¹⁷ . 50% ¹⁶ for 10 initial asst. years ¹⁷ . 30% ¹⁶ for 10 initial asst. years ¹⁷ . 30% ¹⁶ for 10 initial asst. years ¹⁷ .
14. An undertaking deriving profit from the business of processing, preservation and packing of fruits or vegetables or 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% ¹⁶ for 5 initial asst. years ¹⁷ & 25% ¹⁶ (30% ¹⁶ in the case of a company) for remaining asst. years ¹⁷ .
15. The business of building, owning and operating a multiplex theatre ¹⁹ 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% ¹⁶ for 5 initial asst. years ¹⁷ .
16. The business of building, owning and operating a convention centre ¹⁹ , 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% ¹⁶ for 5 initial asst. years ¹⁷ .
17. An undertaking deriving profits from the business of operating and maintaining a hospital in rural area ¹⁹ subject to condition that: (a) it has atleast 100 beds for patients; (b) construction is in accordance with regulations of local authority; & (c) files alongwith the return of income, an audit report in Form No. 10CCBC certifying that the deduction has been correctly claimed [Sec. 80-IB(11B)]	Constructed during the period from 1-10-2004 to 31-3-2008. Hospital will be deemed to have been constructed on the date on which a completion certificate is issued by the concerned local authority	5 (in all cases)	100% ¹⁶ for 5 initial asst. years ¹⁷ .

15. Refer footnote No. 8 on facing page.

16. of profits and gains from such business.

17. Refer footnote No. 10 on facing page.

18. Deduction u/s. 80-IB(7)(a) & 80-IB(7)(b) is subject to fulfilment of conditions prescribed in sec. 80-IB(7)(c).

19. For the definition of “built-up area”, “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 2005-06 to 2009-10^{1/2/3}:

A rebate of (deduction from) income-tax is allowable under sections 88, 88B, 88C, 88D & 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: (a) long-term capital gains, and (b) short-term capital gains which is chargeable to income-tax at flat rate u/s. 111A(1) (Refer item 7 on page 161), for the purpose of rebate u/s. 88 only and not for the purpose of rebate u/s. 88B/88C/88D/88E].

(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/additional surcharge) on the total income as determined in (2) above.

(4) Determine the aggregate amount of specified savings⁴ made by you under section 88.

For assessment year 2005-06¹:

The amount paid or deposited in the specified savings⁴ 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)].

(5) Rebate of (deduction from) income-tax u/s. 88(1),—

For assessment year 2005-06¹:

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 savings⁴ [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 savings⁴ [Refer (4)] [Section 88(1)(ii)];

(c) **exceeds Rs. 5,00,000**, rebate of (deduction from) income-tax is ‘nil’ [Section 88(1)(iii)].

The maximum amount of specified savings⁴ referred to in : (a) section 88(2)(i) to 88(2)(xvii) is upto Rs. 1,00,000 subject to condition that atleast Rs. 30,000 is invested in the specified savings referred to in section 88(2)(xvi) & 88(2)(xvii); and (b) section 88(2)(i) to 88(2)(xv) is upto Rs. 70,000. The ceiling limit of specified savings u/s. 88(2)(xv) is upto Rs. 20,000 [Section 88(5)].

To illustrate, investments in specified savings referred to in section 88(2)(i) to (xv) is Rs. 70,000 and in specified savings referred to in section 88(2)(xvi) & (xvii) 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 section 88(2)(xvi) & (xvii) 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 section 88(2)(xvi) & (xvii), 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.

(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**, for assessment year 2005-06². The rebate u/s. 88B is to be allowed before allowing the tax rebate under Chapter VIII-A. For *Example*, refer page 241 of ITRR 2005-06 (67th Year of Publication).

(7) **Upto assessment year 2005-06³**, 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

1. From assessment year 2006-07 and onwards, in lieu of rebate of (deduction from) income-tax allowable u/s. 88, the investments in specified savings mentioned in section 80C(2), deduction for the said specified savings is allowable from gross total income u/s. 80C(1) [Refer item (i) on page 210] and not rebate u/s. 88.

2. From assessment year 2006-07 and onwards, an additional rebate of (deduction from) income-tax is not allowable u/s. 88B as the said section has been omitted from the said assessment year.

3. From assessment year 2006-07 and onwards, an additional rebate of (deduction from) income-tax is not allowable u/s. 88C & 88D as the said sections have been omitted from the said assessment year.

4. For specified savings under section 88, refer pp. 239-241 of ITRR 2005-06 (67th Year of Publication).

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 253 of ITRR 2005-06 (67th Year of Publication).

(8) **For assessment year 2005-06⁵**, in the case of an **individual, being resident in India, whose total (taxable) income does not exceed Rs. 1,00,000**, is entitled to a deduction from the amount of income-tax on his total (taxable) income with which he is chargeable for the said assessment year, **of an amount equal to 100% of such income-tax** [Section 88D(a)]. As income-tax payable is Rs. nil, additional surcharge (i.e., Education Cess) @ 2% on I.T. is also Rs. 'Nil'. Marginal relief is provided to ensure that in the case of such a resident individual having total (taxable) income exceeding Rs. 1,00,000 is not left with post tax income (i.e., income after deducting income-tax at the scheduled rate) below Rs. 1,00,000 [Section 88D(b)]. The relief u/s. 88D(b) is on graded scale of income. The **marginal relief** for rebate u/s. 88D(b) holds good **upto total (taxable) income of Rs. 1,11,240**. The rebate u/s. 88D is to be allowed before allowing the tax rebate under Chapter VIII-A. For *Example*, refer page 253 of ITRR 2005-06 (67th Year of Publication).

(9) **For assessment year 2005-06 to 2008-09⁶**, where the total (taxable) 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 [Section 88E]. The deduction will be allowed if the evidence of payment of STT in the prescribed Form No. 10DB (in respect of value of transactions entered into in a recognised stock exchange)/ No. 10DC (on the value of transactions of sale of a unit of an equity oriented fund to the mutual fund) is furnished alongwith the return of income [1st proviso to section 88E(1)]. However, the amount of deduction shall not exceed the amount of income-tax computed as above on such income [2nd proviso to section 88E(1)]. For the definition of "taxable securities transaction" and "securities transaction tax", refer section 97 of the Finance (No. 2) Act, 2004 [*Explanation* to section 88E].

(10) From the amount of income-tax as computed in (3) on facing page, deduct the aggregate amount of rebates arrived in (5) and/or (6) and/or (7) and/or (8) and/or (9) above. It may be noted that the aggregate amount of rebates arrived at in (5) and/or (6) and/or (7) and/or (8) and/or (9) above shall not, in any case, exceed the amount of income-tax computed in (3) on facing page [Section 87(2)].

(11) The reduced amount of income-tax arrived as at in (10) above, is to be increased by a surcharge/ additional surcharge on I.T. & S.C., if any, at prescribed rates on such reduced amount of income-tax.

(12) The resultant figure as arrived at in (10) or (11) above, as the case may be, is the tax payable by you on your total (taxable) income.

For Examples for rebate of (deduction from) income-tax u/s. 88, refer pp. 237-239 of ITRR 2005-06 (67th Year of Publication).

For specified savings eligible for rebate of (deduction from) income-tax u/s. 88 upto assessment year 2005-06, refer pp. 239-241 of ITRR 2005-06 (67th Year of Publication).

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

5. From assessment year 2006-07 and onwards, an additional rebate of (deduction from) income-tax is not allowable u/s. 88D as the said section has been omitted from the said assessment year.

6. For the notes on newly inserted section 88E(3) by the Finance Act, 2008, refer para 6.1 on page 41.

TABLE I
INCOME-TAX & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,10,000 & Rs. 1,50,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT*‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 10%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	1	0.02	0.01	1.03	50	5	0.10	0.05	5.15	90	9	0.18	0.09	9.27
20	2	0.04	0.02	2.06	60	6	0.12	0.06	6.18	100	10	0.20	0.10	10.30
30	3	0.06	0.03	3.09	70	7	0.14	0.07	7.21	200	20	0.40	0.20	20.60
40	4	0.08	0.04	4.12	80	8	0.16	0.08	8.24	300	30	0.60	0.30	30.90
50	5	0.10	0.05	5.15	90	9	0.18	0.09	9.27	400	40	0.80	0.40	41.20

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'VI' to 'X' on pp. 238-245.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'XI' to 'XIV' on pp. 246-251.

110000	Nil	Nil	Nil	Nil	111300	130	2.60	1.30	133.90	112600	260	5.20	2.60	267.80
110100	10	0.20	0.10	10.30	111400	140	2.80	1.40	144.20	112700	270	5.40	2.70	278.10
110200	20	0.40	0.20	20.60	111500	150	3.00	1.50	154.50	112800	280	5.60	2.80	288.40
110300	30	0.60	0.30	30.90	111600	160	3.20	1.60	164.80	112900	290	5.80	2.90	298.70
110400	40	0.80	0.40	41.20	111700	170	3.40	1.70	175.10	113000	300	6.00	3.00	309.00
110500	50	1.00	0.50	51.50	111800	180	3.60	1.80	185.40	113100	310	6.20	3.10	319.30
110600	60	1.20	0.60	61.80	111900	190	3.80	1.90	195.70	113200	320	6.40	3.20	329.60
110700	70	1.40	0.70	72.10	112000	200	4.00	2.00	206.00	113300	330	6.60	3.30	339.90
110800	80	1.60	0.80	82.40	112100	210	4.20	2.10	216.30	113400	340	6.80	3.40	350.20
110900	90	1.80	0.90	92.70	112200	220	4.40	2.20	226.60	113500	350	7.00	3.50	360.50
111000	100	2.00	1.00	103.00	112300	230	4.60	2.30	236.90	113600	360	7.20	3.60	370.80
111100	110	2.20	1.10	113.30	112400	240	4.80	2.40	247.20	113700	370	7.40	3.70	381.10
111200	120	2.40	1.20	123.60	112500	250	5.00	2.50	257.50	113800	380	7.60	3.80	391.40

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229.

* 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. 1,10,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer page 298.

TABLE I—(Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs.	S. & H. ED. CESS Rs. P.	
113800	380	7.60	3.80	391.40	118500	850	17	8.50	875.50	134500	2450	49	24.50	2523.50
113900	390	7.80	3.90	401.70	119000	900	18	9.00	927.00	135000	2500	50	25.00	2575.00
114000	400	8.00	4.00	412.00	119500	950	19	9.50	978.50	135500	2550	51	25.50	2626.50
114100	410	8.20	4.10	422.30	120000	1000	20	10.00	1030.00	136000	2600	52	26.00	2678.00
114200	420	8.40	4.20	432.60	120500	1050	21	10.50	1081.50	136500	2650	53	26.50	2729.50
114300	430	8.60	4.30	442.90	121000	1100	22	11.00	1133.00	137000	2700	54	27.00	2781.00
114400	440	8.80	4.40	453.20	121500	1150	23	11.50	1184.50	137500	2750	55	27.50	2832.50
114500	450	9.00	4.50	463.50	122000	1200	24	12.00	1236.00	138000	2800	56	28.00	2884.00
114600	460	9.20	4.60	473.80	122500	1250	25	12.50	1287.50	138500	2850	57	28.50	2935.50
114700	470	9.40	4.70	484.10	123000	1300	26	13.00	1339.00	139000	2900	58	29.00	2987.00
114800	480	9.60	4.80	494.40	123500	1350	27	13.50	1390.50	139500	2950	59	29.50	3038.50
114900	490	9.80	4.90	504.70	124000	1400	28	14.00	1442.00	140000	3000	60	30.00	3090.00
115000	500	10.00	5.00	515.00	124500	1450	29	14.50	1493.50	140500	3050	61	30.50	3141.50
115100	510	10.20	5.10	525.30	125000	1500	30	15.00	1545.00	141000	3100	62	31.00	3193.00
115200	520	10.40	5.20	535.60	125500	1550	31	15.50	1596.50	141500	3150	63	31.50	3244.50
115300	530	10.60	5.30	545.90	126000	1600	32	16.00	1648.00	142000	3200	64	32.00	3296.00
115400	540	10.80	5.40	556.20	126500	1650	33	16.50	1699.50	142500	3250	65	32.50	3347.50
115500	550	11.00	5.50	566.50	127000	1700	34	17.00	1751.00	143000	3300	66	33.00	3399.00
115600	560	11.20	5.60	576.80	127500	1750	35	17.50	1802.50	143500	3350	67	33.50	3450.50
115700	570	11.40	5.70	587.10	128000	1800	36	18.00	1854.00	144000	3400	68	34.00	3502.00
115800	580	11.60	5.80	597.40	128500	1850	37	18.50	1905.50	144500	3450	69	34.50	3553.50
115900	590	11.80	5.90	607.70	129000	1900	38	19.00	1957.00	145000	3500	70	35.00	3605.00
116000	600	12.00	6.00	618.00	129500	1950	39	19.50	2008.50	145500	3550	71	35.50	3656.50
116100	610	12.20	6.10	628.30	130000	2000	40	20.00	2060.00	146000	3600	72	36.00	3708.00
116200	620	12.40	6.20	638.60	130500	2050	41	20.50	2111.50	146500	3650	73	36.50	3759.50
116300	630	12.60	6.30	648.90	131000	2100	42	21.00	2163.00	147000	3700	74	37.00	3811.00
116400	640	12.80	6.40	659.20	131500	2150	43	21.50	2214.50	147500	3750	75	37.50	3862.50
116500	650	13.00	6.50	669.50	132000	2200	44	22.00	2266.00	148000	3800	76	38.00	3914.00
117000	700	14.00	7.00	721.00	132500	2250	45	22.50	2317.50	148500	3850	77	38.50	3965.50
117500	750	15.00	7.50	772.50	133000	2300	46	23.00	2369.00	149000	3900	78	39.00	4017.00
118000	800	16.00	8.00	824.00	133500	2350	47	23.50	2420.50	149500	3950	79	39.50	4068.50
118500	850	17.00	8.50	875.50	134000	2400	48	24.00	2472.00	150000	4000	80	40.00	4120.00

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE II
INCOME-TAX & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,50,000 & Rs. 2,50,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT*‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	2	0.04	0.02	2.06	70	14	0.28	0.14	14.42	400	80	1.60	0.80	82.40
20	4	0.08	0.04	4.12	80	16	0.32	0.16	16.48	500	100	2.00	1.00	103.00
30	6	0.12	0.06	6.18	90	18	0.36	0.18	18.54	600	120	2.40	1.20	123.60
40	8	0.16	0.08	8.24	100	20	0.40	0.20	20.60	700	140	2.80	1.40	144.20
50	10	0.20	0.10	10.30	200	40	0.80	0.40	41.20	800	160	3.20	1.60	164.80
60	12	0.24	0.12	12.36	300	60	1.20	0.60	61.80	900	180	3.60	1.80	185.40

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'VI' to 'X' on pp. 238-245.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'XI' to 'XIV' on pp. 246-251.

150000	4000	80	40	4120	156000	5200	104	52	5356	162000	6400	128	64	6592
150500	4100	82	41	4223	156500	5300	106	53	5459	162500	6500	130	65	6695
151000	4200	84	42	4326	157000	5400	108	54	5562	163000	6600	132	66	6798
151500	4300	86	43	4429	157500	5500	110	55	5665	163500	6700	134	67	6901
152000	4400	88	44	4532	158000	5600	112	56	5768	164000	6800	136	68	7004
152500	4500	90	45	4635	158500	5700	114	57	5871	164500	6900	138	69	7107
153000	4600	92	46	4738	159000	5800	116	58	5974	165000	7000	140	70	7210
153500	4700	94	47	4841	159500	5900	118	59	6077	165500	7100	142	71	7313
154000	4800	96	48	4944	160000	6000	120	60	6180	166000	7200	144	72	7416
154500	4900	98	49	5047	160500	6100	122	61	6283	166500	7300	146	73	7519
155000	5000	100	50	5150	161000	6200	124	62	6386	167000	7400	148	74	7622
155500	5100	102	51	5253	161500	6300	126	63	6489	167500	7500	150	75	7725

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229.

* 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. 1,10,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 298-299.

TABLE II—(Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
167500	7500	150	75	7725	187000	11400	228	114	11742	219000	17800	356	178	18334
168000	7600	152	76	7828	188000	11600	232	116	11948	220000	18000	360	180	18540
168500	7700	154	77	7931	189000	11800	236	118	12154	221000	18200	364	182	18746
169000	7800	156	78	8034	190000	12000	240	120	12360	222000	18400	368	184	18952
169500	7900	158	79	8137	191000	12200	244	122	12566	223000	18600	372	186	19158
170000	8000	160	80	8240	192000	12400	248	124	12772	224000	18800	376	188	19364
170500	8100	162	81	8343	193000	12600	252	126	12978	225000	19000	380	190	19570
171000	8200	164	82	8446	194000	12800	256	128	13184	226000	19200	384	192	19776
171500	8300	166	83	8549	195000	13000	260	130	13390	227000	19400	388	194	19982
172000	8400	168	84	8652	196000	13200	264	132	13596	228000	19600	392	196	20188
172500	8500	170	85	8755	197000	13400	268	134	13802	229000	19800	396	198	20394
173000	8600	172	86	8858	198000	13600	272	136	14008	230000	20000	400	200	20600
173500	8700	174	87	8961	199000	13800	276	138	14214	231000	20200	404	202	20806
174000	8800	176	88	9064	200000	14000	280	140	14420	232000	20400	408	204	21012
174500	8900	178	89	9167	201000	14200	284	142	14626	233000	20600	412	206	21218
175000	9000	180	90	9270	202000	14400	288	144	14832	234000	20800	416	208	21424
175500	9100	182	91	9373	203000	14600	292	146	15038	235000	21000	420	210	21630
176000	9200	184	92	9476	204000	14800	296	148	15244	236000	21200	424	212	21836
176500	9300	186	93	9579	205000	15000	300	150	15450	237000	21400	428	214	22042
177000	9400	188	94	9682	206000	15200	304	152	15656	238000	21600	432	216	22248
177500	9500	190	95	9785	207000	15400	308	154	15862	239000	21800	436	218	22454
178000	9600	192	96	9888	208000	15600	312	156	16068	240000	22000	440	220	22660
178500	9700	194	97	9991	209000	15800	316	158	16274	241000	22200	444	222	22866
179000	9800	196	98	10094	210000	16000	320	160	16480	242000	22400	448	224	23072
179500	9900	198	99	10197	211000	16200	324	162	16686	243000	22600	452	226	23278
180000	10000	200	100	10300	212000	16400	328	164	16892	244000	22800	456	228	23484
181000	10200	204	102	10506	213000	16600	332	166	17098	245000	23000	460	230	23690
182000	10400	208	104	10712	214000	16800	336	168	17304	246000	23200	464	232	23896
183000	10600	212	106	10918	215000	17000	340	170	17510	247000	23400	468	234	24102
184000	10800	216	108	11124	216000	17200	344	172	17716	248000	23600	472	236	24308
185000	11000	220	110	11330	217000	17400	348	174	17922	249000	23800	476	238	24514
186000	11200	224	112	11536	218000	17600	352	176	18128	250000	24000	480	240	24720

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE III
INCOME-TAX & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 2,50,000 & Rs. 10,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT*‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%†† ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	0.06	0.03	3.09	100	30	0.60	0.30	30.90	1000	300	6	3	309
20	6	0.12	0.06	6.18	200	60	1.20	0.60	61.80	2000	600	12	6	618
30	9	0.18	0.09	9.27	300	90	1.80	0.90	92.70	3000	900	18	9	927
40	12	0.24	0.12	12.36	400	120	2.40	1.20	123.60	4000	1200	24	12	1236
50	15	0.30	0.15	15.45	500	150	3.00	1.50	154.50	5000	1500	30	15	1545
60	18	0.36	0.18	18.54	600	180	3.60	1.80	185.40	6000	1800	36	18	1854
70	21	0.42	0.21	21.63	700	210	4.20	2.10	216.30	7000	2100	42	21	2163
80	24	0.48	0.24	24.72	800	240	4.80	2.40	247.20	8000	2400	48	24	2472
90	27	0.54	0.27	27.81	900	270	5.40	2.70	278.10	9000	2700	54	27	2781

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'VI' to 'X' on pp. 238-245.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'XI' to 'XIV' on pp. 246-251.

250000	24000	480	240	24720	295000	37500	750	375	38625	340000	51000	1020	510	52530
255000	25500	510	255	26265	300000	39000	780	390	40170	345000	52500	1050	525	54075
260000	27000	540	270	27810	305000	40500	810	405	41715	350000	54000	1080	540	55620
265000	28500	570	285	29355	310000	42000	840	420	43260	355000	55500	1110	555	57165
270000	30000	600	300	30900	315000	43500	870	435	44805	360000	57000	1140	570	58710
275000	31500	630	315	32445	320000	45000	900	450	46350	365000	58500	1170	585	60255
280000	33000	660	330	33990	325000	46500	930	465	47895	370000	60000	1200	600	61800
285000	34500	690	345	35535	330000	48000	960	480	49440	375000	61500	1230	615	63345
290000	36000	720	360	37080	335000	49500	990	495	50985	380000	63000	1260	630	64890

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229.

* 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. 1,10,000 as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 298-303.

TABLE III—(Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
380000	63000	1260	630	64890	535000	109500	2190	1095	112785	695000	157500	3150	1575	162225
385000	64500	1290	645	66435	540000	111000	2220	1110	114330	700000	159000	3180	1590	163770
390000	66000	1320	660	67980	545000	112500	2250	1125	115875	710000	162000	3240	1620	166860
395000	67500	1350	675	69525	550000	114000	2280	1140	117420	720000	165000	3300	1650	169950
400000	69000	1380	690	71070	555000	115500	2310	1155	118965	730000	168000	3360	1680	173040
405000	70500	1410	705	72615	560000	117000	2340	1170	120510	740000	171000	3420	1710	176130
410000	72000	1440	720	74160	565000	118500	2370	1185	122055	750000	174000	3480	1740	179220
415000	73500	1470	735	75705	570000	120000	2400	1200	123600	760000	177000	3540	1770	182310
420000	75000	1500	750	77250	575000	121500	2430	1215	125145	770000	180000	3600	1800	185400
425000	76500	1530	765	78795	580000	123000	2460	1230	126690	780000	183000	3660	1830	188490
430000	78000	1560	780	80340	585000	124500	2490	1245	128235	790000	186000	3720	1860	191580
435000	79500	1590	795	81885	590000	126000	2520	1260	129780	800000	189000	3780	1890	194670
440000	81000	1620	810	83430	595000	127500	2550	1275	131325	810000	192000	3840	1920	197760
445000	82500	1650	825	84975	600000	129000	2580	1290	132870	820000	195000	3900	1950	200850
450000	84000	1680	840	86520	605000	130500	2610	1305	134415	830000	198000	3960	1980	203940
455000	85500	1710	855	88065	610000	132000	2640	1320	135960	840000	201000	4020	2010	207030
460000	87000	1740	870	89610	615000	133500	2670	1335	137505	850000	204000	4080	2040	210120
465000	88500	1770	885	91155	620000	135000	2700	1350	139050	860000	207000	4140	2070	213210
470000	90000	1800	900	92700	625000	136500	2730	1365	140595	870000	210000	4200	2100	216300
475000	91500	1830	915	94245	630000	138000	2760	1380	142140	880000	213000	4260	2130	219390
480000	93000	1860	930	95790	635000	139500	2790	1395	143685	890000	216000	4320	2160	222480
485000	94500	1890	945	97335	640000	141000	2820	1410	145230	900000	219000	4380	2190	225570
490000	96000	1920	960	98880	645000	142500	2850	1425	146775	910000	222000	4440	2220	228660
495000	97500	1950	975	100425	650000	144000	2880	1440	148320	920000	225000	4500	2250	231750
500000	99000	1980	990	101970	655000	145500	2910	1455	149865	930000	228000	4560	2280	234840
505000	100500	2010	1005	103515	660000	147000	2940	1470	151410	940000	231000	4620	2310	237930
510000	102000	2040	1020	105060	665000	148500	2970	1485	152955	950000	234000	4680	2340	241020
515000	103500	2070	1035	106605	670000	150000	3000	1500	154500	960000	237000	4740	2370	244110
520000	105000	2100	1050	108150	675000	151500	3030	1515	156045	970000	240000	4800	2400	247200
525000	106500	2130	1065	109695	680000	153000	3060	1530	157590	980000	243000	4860	2430	250290
530000	108000	2160	1080	111240	685000	154500	3090	1545	159135	990000	246000	4920	2460	253380
535000	109500	2190	1095	112785	690000	156000	3120	1560	160680	1000000	249000	4980	2490	256470

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

TABLE IV
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,37,160

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT*‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.††		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.††		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'VI' to 'X' on pp. 238-245.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'XI' to 'XIV' on pp. 246-251.

1000000	249000	Nil	249000	4980	2490	256470	1020000	255000	14000	269000	5380.00	2690.00	277070.00
1002000	249600	1400	251000	5020	2510	258530	1022000	255600	15400	271000	5420.00	2710.00	279130.00
1004000	250200	2800	253000	5060	2530	260590	1024000	256200	16800	273000	5460.00	2730.00	281190.00
1006000	250800	4200	255000	5100	2550	262650	1026000	256800	18200	275000	5500.00	2750.00	283250.00
1008000	251400	5600	257000	5140	2570	264710	1028000	257400	19600	277000	5540.00	2770.00	285310.00
1010000	252000	7000	259000	5180	2590	266770	1030000	258000	21000	279000	5580.00	2790.00	287370.00
1012000	252600	8400	261000	5220	2610	268830	1032000	258600	22400	281000	5620.00	2810.00	289430.00
1014000	253200	9800	263000	5260	2630	270890	1034000	259200	23800	283000	5660.00	2830.00	291490.00
1016000	253800	11200	265000	5300	2650	272950	1036000	259800	25200	285000	5700.00	2850.00	293550.00
1018000	254400	12600	267000	5340	2670	275010	1037160	260148	26012	286160	5723.20	2861.60	294744.80

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229.

* 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. 1,10,000 as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

†† Surcharge at the rate of 10% on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part I of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,37,160 [Refer table above]. Even in the case of a non-resident, surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000 [Vide item (i) of Paragraph A of Part I of the First Schedule to the Finance Act, 2008]. In cases, where deduction from income-tax is allowable u/s. 88E, do not compute surcharge & addl. S.C. and total from these columns.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 304-305.

TABLE V
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,37,170 & Rs. 11,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) SELF ASSESSMENT‡ and (2) REGULAR ASSESSMENT

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE : 10% OF THE INCOME TAX††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.††		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.††		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	0.30	3.30	0.07	0.03	3.40	300	90	9	99	1.98	0.99	101.97
20	6	0.60	6.60	0.13	0.07	6.80	400	120	12	132	2.64	1.32	135.96
30	9	0.90	9.90	0.20	0.10	10.20	500	150	15	165	3.30	1.65	169.95
40	12	1.20	13.20	0.26	0.13	13.60	600	180	18	198	3.96	1.98	203.94
50	15	1.50	16.50	0.33	0.17	17.00	700	210	21	231	4.62	2.31	237.93
60	18	1.80	19.80	0.40	0.20	20.39	800	240	24	264	5.28	2.64	271.92
70	21	2.10	23.10	0.46	0.23	23.79	900	270	27	297	5.94	2.97	305.91
80	24	2.40	26.40	0.53	0.26	27.19	1000	300	30	330	6.60	3.30	339.90
90	27	2.70	29.70	0.59	0.30	30.59	2000	600	60	660	13.20	6.60	679.80
100	30	3.00	33.00	0.66	0.33	33.99	3000	900	90	990	19.80	9.90	1019.70
200	60	6.00	66.00	1.32	0.66	67.98	4000	1200	120	1320	26.40	13.20	1359.60

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'VI' to 'X' on pp. 238-245.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2008. For computation of tax in the case of such an individual, refer tables 'XI' to 'XIV' on pp. 246-251.

1037170	260151	26015.10	286166.10	5723.32	2861.66	294751.08	1062000	267600	26760	294360	5887.20	2943.60	303190.80
1038000	260400	26040.00	286440.00	5728.80	2864.40	295033.20	1064000	268200	26820	295020	5900.40	2950.20	303870.60
1040000	261000	26100.00	287100.00	5742.00	2871.00	295713.00	1066000	268800	26880	295680	5913.60	2956.80	304550.40
1042000	261600	26160.00	287760.00	5755.20	2877.60	296392.80	1068000	269400	26940	296340	5926.80	2963.40	305230.20
1044000	262200	26220.00	288420.00	5768.40	2884.20	297072.60	1070000	270000	27000	297000	5940.00	2970.00	305910.00
1046000	262800	26280.00	289080.00	5781.60	2890.80	297752.40	1072000	270600	27060	297660	5953.20	2976.60	306589.80
1048000	263400	26340.00	289740.00	5794.80	2897.40	298432.20	1074000	271200	27120	298320	5966.40	2983.20	307269.60
1050000	264000	26400.00	290400.00	5808.00	2904.00	299112.00	1075000	271500	27150	298650	5973.00	2986.50	307609.50
1052000	264600	26460.00	291060.00	5821.20	2910.60	299791.80	1080000	273000	27300	300300	6006.00	3003.00	309309.00
1054000	265200	26520.00	291720.00	5834.40	2917.20	300471.60	1085000	274500	27450	301950	6039.00	3019.50	311008.50
1056000	265800	26580.00	292380.00	5847.60	2923.80	301151.40	1090000	276000	27600	303600	6072.00	3036.00	312708.00
1058000	266400	26640.00	293040.00	5860.80	2930.40	301831.20	1095000	277500	27750	305250	6105.00	3052.50	314407.50
1060000	267000	26700.00	293700.00	5874.00	2937.00	302511.00	1100000	279000	27900	306900	6138.00	3069.00	316107.00

For Note, **, *, ††, ‡ & §, refer Note, **, *, ††, ‡ & §, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2008-09:

				Income-tax	Surcharge	Sub-total of I.T. & S.C.	ADDL. S.C. E.C. S.H.E.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	33.00	3,399.00
For every	Rs.	1,000	..	300.00	30.00	330.00	6.60	3.30	339.90
For every	Rs.	100	..	30.00	3.00	33.00	0.66	0.33	33.99
For every	Rs.	10	..	3.00	0.30	3.30	0.07	0.03	3.40

TABLE VI
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,45,000 & Rs. 1,50,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 10%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	1	0.02	0.01	1.03	40	4	0.08	0.04	4.12	70	7	0.14	0.07	7.21
20	2	0.04	0.02	2.06	50	5	0.10	0.05	5.15	80	8	0.16	0.08	8.24
30	3	0.06	0.03	3.09	60	6	0.12	0.06	6.18	90	9	0.18	0.09	9.27

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2008, refer table 'XI' to 'XIV' on pp. 246-251.

145000	Nil	Nil	Nil	Nil	145550	55	1.10	0.55	56.65	146100	110	2.20	1.10	113.30
145050	5	0.10	0.05	5.15	145600	60	1.20	0.60	61.80	146150	115	2.30	1.15	118.45
145100	10	0.20	0.10	10.30	145650	65	1.30	0.65	66.95	146200	120	2.40	1.20	123.60
145150	15	0.30	0.15	15.45	145700	70	1.40	0.70	72.10	146250	125	2.50	1.25	128.75
145200	20	0.40	0.20	20.60	145750	75	1.50	0.75	77.25	146300	130	2.60	1.30	133.90
145250	25	0.50	0.25	25.75	145800	80	1.60	0.80	82.40	146350	135	2.70	1.35	139.05
145300	30	0.60	0.30	30.90	145850	85	1.70	0.85	87.55	146400	140	2.80	1.40	144.20
145350	35	0.70	0.35	36.05	145900	90	1.80	0.90	92.70	146450	145	2.90	1.45	149.35
145400	40	0.80	0.40	41.20	145950	95	1.90	0.95	97.85	146500	150	3.00	1.50	154.50
145450	45	0.90	0.45	46.35	146000	100	2.00	1.00	103.00	146550	155	3.10	1.55	159.65
145500	50	1.00	0.50	51.50	146050	105	2.10	1.05	108.15	146600	160	3.20	1.60	164.80
145550	55	1.10	0.55	56.65	146100	110	2.20	1.10	113.30	146650	165	3.30	1.65	169.95

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer page 306.

TABLE VI — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
146650	165	3.30	1.65	169.95	147700	270	5.40	2.70	278.10	148750	375	7.50	3.75	386.25
146700	170	3.40	1.70	175.10	147750	275	5.50	2.75	283.25	148800	380	7.60	3.80	391.40
146750	175	3.50	1.75	180.25	147800	280	5.60	2.80	288.40	148850	385	7.70	3.85	396.55
146800	180	3.60	1.80	185.40	147850	285	5.70	2.85	293.55	148900	390	7.80	3.90	401.70
146850	185	3.70	1.85	190.55	147900	290	5.80	2.90	298.70	148950	395	7.90	3.95	406.85
146900	190	3.80	1.90	195.70	147950	295	5.90	2.95	303.85	149000	400	8.00	4.00	412.00
146950	195	3.90	1.95	200.85	148000	300	6.00	3.00	309.00	149050	405	8.10	4.05	417.15
147000	200	4.00	2.00	206.00	148050	305	6.10	3.05	314.15	149100	410	8.20	4.10	422.30
147050	205	4.10	2.05	211.15	148100	310	6.20	3.10	319.30	149150	415	8.30	4.15	427.45
147100	210	4.20	2.10	216.30	148150	315	6.30	3.15	324.45	149200	420	8.40	4.20	432.60
147150	215	4.30	2.15	221.45	148200	320	6.40	3.20	329.60	149250	425	8.50	4.25	437.75
147200	220	4.40	2.20	226.60	148250	325	6.50	3.25	334.75	149300	430	8.60	4.30	442.90
147250	225	4.50	2.25	231.75	148300	330	6.60	3.30	339.90	149350	435	8.70	4.35	448.05
147300	230	4.60	2.30	236.90	148350	335	6.70	3.35	345.05	149400	440	8.80	4.40	453.20
147350	235	4.70	2.35	242.05	148400	340	6.80	3.40	350.20	149450	445	8.90	4.45	458.35
147400	240	4.80	2.40	247.20	148450	345	6.90	3.45	355.35	149500	450	9.00	4.50	463.50
147450	245	4.90	2.45	252.35	148500	350	7.00	3.50	360.50	149550	455	9.10	4.55	468.65
147500	250	5.00	2.50	257.50	148550	355	7.10	3.55	365.65	149600	460	9.20	4.60	473.80
147550	255	5.10	2.55	262.65	148600	360	7.20	3.60	370.80	149700	470	9.40	4.70	484.10
147600	260	5.20	2.60	267.80	148650	365	7.30	3.65	375.95	149800	480	9.60	4.80	494.40
147650	265	5.30	2.65	272.95	148700	370	7.40	3.70	381.10	149900	490	9.80	4.90	504.70
147700	270	5.40	2.70	278.10	148750	375	7.50	3.75	386.25	150000	500	10.00	5.00	515.00

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE VII
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,50,000 & Rs. 2,50,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	2	0.04	0.02	2.06	70	14	0.28	0.14	14.42	400	80	1.60	0.80	82.40
20	4	0.08	0.04	4.12	80	16	0.32	0.16	16.48	500	100	2.00	1.00	103.00
30	6	0.12	0.06	6.18	90	18	0.36	0.18	18.54	600	120	2.40	1.20	123.60
40	8	0.16	0.08	8.24	100	20	0.40	0.20	20.60	700	140	2.80	1.40	144.20
50	10	0.20	0.10	10.30	200	40	0.80	0.40	41.20	800	160	3.20	1.60	164.80
60	12	0.24	0.12	12.36	300	60	1.20	0.60	61.80	900	180	3.60	1.80	185.40

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2008, refer table 'XI' to 'XIV' on pp. 246-251.

150000	500	10	5	515	156000	1700	34	17	1751	162000	2900	58	29	2987
150500	600	12	6	618	156500	1800	36	18	1854	162500	3000	60	30	3090
151000	700	14	7	721	157000	1900	38	19	1957	163000	3100	62	31	3193
151500	800	16	8	824	157500	2000	40	20	2060	163500	3200	64	32	3296
152000	900	18	9	927	158000	2100	42	21	2163	164000	3300	66	33	3399
152500	1000	20	10	1030	158500	2200	44	22	2266	164500	3400	68	34	3502
153000	1100	22	11	1133	159000	2300	46	23	2369	165000	3500	70	35	3605
153500	1200	24	12	1236	159500	2400	48	24	2472	165500	3600	72	36	3708
154000	1300	26	13	1339	160000	2500	50	25	2575	166000	3700	74	37	3811
154500	1400	28	14	1442	160500	2600	52	26	2678	166500	3800	76	38	3914
155000	1500	30	15	1545	161000	2700	54	27	2781	167000	3900	78	39	4017
155500	1600	32	16	1648	161500	2800	56	28	2884	167500	4000	80	40	4120

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161)], if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 306-307.

TABLE VII — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
167500	4000	80	40	4120	187000	7900	158	79	8137	219000	14300	286	143	14729
168000	4100	82	41	4223	188000	8100	162	81	8343	220000	14500	290	145	14935
168500	4200	84	42	4326	189000	8300	166	83	8549	221000	14700	294	147	15141
169000	4300	86	43	4429	190000	8500	170	85	8755	222000	14900	298	149	15347
169500	4400	88	44	4532	191000	8700	174	87	8961	223000	15100	302	151	15553
170000	4500	90	45	4635	192000	8900	178	89	9167	224000	15300	306	153	15759
170500	4600	92	46	4738	193000	9100	182	91	9373	225000	15500	310	155	15965
171000	4700	94	47	4841	194000	9300	186	93	9579	226000	15700	314	157	16171
171500	4800	96	48	4944	195000	9500	190	95	9785	227000	15900	318	159	16377
172000	4900	98	49	5047	196000	9700	194	97	9991	228000	16100	322	161	16583
172500	5000	100	50	5150	197000	9900	198	99	10197	229000	16300	326	163	16789
173000	5100	102	51	5253	198000	10100	202	101	10403	230000	16500	330	165	16995
173500	5200	104	52	5356	199000	10300	206	103	10609	231000	16700	334	167	17201
174000	5300	106	53	5459	200000	10500	210	105	10815	232000	16900	338	169	17407
174500	5400	108	54	5562	201000	10700	214	107	11021	233000	17100	342	171	17613
175000	5500	110	55	5665	202000	10900	218	109	11227	234000	17300	346	173	17819
175500	5600	112	56	5768	203000	11100	222	111	11433	235000	17500	350	175	18025
176000	5700	114	57	5871	204000	11300	226	113	11639	236000	17700	354	177	18231
176500	5800	116	58	5974	205000	11500	230	115	11845	237000	17900	358	179	18437
177000	5900	118	59	6077	206000	11700	234	117	12051	238000	18100	362	181	18643
177500	6000	120	60	6180	207000	11900	238	119	12257	239000	18300	366	183	18849
178000	6100	122	61	6283	208000	12100	242	121	12463	240000	18500	370	185	19055
178500	6200	124	62	6386	209000	12300	246	123	12669	241000	18700	374	187	19261
179000	6300	126	63	6489	210000	12500	250	125	12875	242000	18900	378	189	19467
179500	6400	128	64	6592	211000	12700	254	127	13081	243000	19100	382	191	19673
180000	6500	130	65	6695	212000	12900	258	129	13287	244000	19300	386	193	19879
181000	6700	134	67	6901	213000	13100	262	131	13493	245000	19500	390	195	20085
182000	6900	138	69	7107	214000	13300	266	133	13699	246000	19700	394	197	20291
183000	7100	142	71	7313	215000	13500	270	135	13905	247000	19900	398	199	20497
184000	7300	146	73	7519	216000	13700	274	137	14111	248000	20100	402	201	20703
185000	7500	150	75	7725	217000	13900	278	139	14317	249000	20300	406	203	20909
186000	7700	154	77	7931	218000	14100	282	141	14523	250000	20500	410	205	21115

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE VIII
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 2,50,000 & Rs. 10,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs. P	S. & H. ED. CESS Rs. P				EDU. CESS Rs. P	S. & H. ED. CESS Rs. P				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
10	3	0.06	0.03	3.09	100	30	0.60	0.30	30.90	1000	300	6	3	309
20	6	0.12	0.06	6.18	200	60	1.20	0.60	61.80	2000	600	12	6	618
30	9	0.18	0.09	9.27	300	90	1.80	0.90	92.70	3000	900	18	9	927
40	12	0.24	0.12	12.36	400	120	2.40	1.20	123.60	4000	1200	24	12	1236
50	15	0.30	0.15	15.45	500	150	3.00	1.50	154.50	5000	1500	30	15	1545
60	18	0.36	0.18	18.54	600	180	3.60	1.80	185.40	6000	1800	36	18	1854
70	21	0.42	0.21	21.63	700	210	4.20	2.10	216.30	7000	2100	42	21	2163
80	24	0.48	0.24	24.72	800	240	4.80	2.40	247.20	8000	2400	48	24	2472
90	27	0.54	0.27	27.81	900	270	5.40	2.70	278.10	9000	2700	54	27	2781

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2008, refer table 'XI' to 'XIV' on pp. 246-251.

250000	20500	410	205	21115	295000	34000	680	340	35020	340000	47500	950	475	48925
255000	22000	440	220	22660	300000	35500	710	355	36565	345000	49000	980	490	50470
260000	23500	470	235	24205	305000	37000	740	370	38110	350000	50500	1010	505	52015
265000	25000	500	250	25750	310000	38500	770	385	39655	355000	52000	1040	520	53560
270000	26500	530	265	27295	315000	40000	800	400	41200	360000	53500	1070	535	55105
275000	28000	560	280	28840	320000	41500	830	415	42745	365000	55000	1100	550	56650
280000	29500	590	295	30385	325000	43000	860	430	44290	370000	56500	1130	565	58195
285000	31000	620	310	31930	330000	44500	890	445	45835	375000	58000	1160	580	59740
290000	32500	650	325	33475	335000	46000	920	460	47380	380000	59500	1190	595	61285

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 10,00,000.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 306-311.

TABLE VIII — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
380000	59500	1190	595	61285	535000	106000	2120	1060	109180	695000	154000	3080	1540	158620
385000	61000	1220	610	62830	540000	107500	2150	1075	110725	700000	155500	3110	1555	160165
390000	62500	1250	625	64375	545000	109000	2180	1090	112270	710000	158500	3170	1585	163255
395000	64000	1280	640	65920	550000	110500	2210	1105	113815	720000	161500	3230	1615	166345
400000	65500	1310	655	67465	555000	112000	2240	1120	115360	730000	164500	3290	1645	169435
405000	67000	1340	670	69010	560000	113500	2270	1135	116905	740000	167500	3350	1675	172525
410000	68500	1370	685	70555	565000	115000	2300	1150	118450	750000	170500	3410	1705	175615
415000	70000	1400	700	72100	570000	116500	2330	1165	119995	760000	173500	3470	1735	178705
420000	71500	1430	715	73645	575000	118000	2360	1180	121540	770000	176500	3530	1765	181795
425000	73000	1460	730	75190	580000	119500	2390	1195	123085	780000	179500	3590	1795	184885
430000	74500	1490	745	76735	585000	121000	2420	1210	124630	790000	182500	3650	1825	187975
435000	76000	1520	760	78280	590000	122500	2450	1225	126175	800000	185500	3710	1855	191065
440000	77500	1550	775	79825	595000	124000	2480	1240	127720	810000	188500	3770	1885	194155
445000	79000	1580	790	81370	600000	125500	2510	1255	129265	820000	191500	3830	1915	197245
450000	80500	1610	805	82915	605000	127000	2540	1270	130810	830000	194500	3890	1945	200335
455000	82000	1640	820	84460	610000	128500	2570	1285	132355	840000	197500	3950	1975	203425
460000	83500	1670	835	86005	615000	130000	2600	1300	133900	850000	200500	4010	2005	206515
465000	85000	1700	850	87550	620000	131500	2630	1315	135445	860000	203500	4070	2035	209605
470000	86500	1730	865	89095	625000	133000	2660	1330	136990	870000	206500	4130	2065	212695
475000	88000	1760	880	90640	630000	134500	2690	1345	138535	880000	209500	4190	2095	215785
480000	89500	1790	895	92185	635000	136000	2720	1360	140080	890000	212500	4250	2125	218875
485000	91000	1820	910	93730	640000	137500	2750	1375	141625	900000	215500	4310	2155	221965
490000	92500	1850	925	95275	645000	139000	2780	1390	143170	910000	218500	4370	2185	225055
495000	94000	1880	940	96820	650000	140500	2810	1405	144715	920000	221500	4430	2215	228145
500000	95500	1910	955	98365	655000	142000	2840	1420	146260	930000	224500	4490	2245	231235
505000	97000	1940	970	99910	660000	143500	2870	1435	147805	940000	227500	4550	2275	234325
510000	98500	1970	985	101455	665000	145000	2900	1450	149350	950000	230500	4610	2305	237415
515000	100000	2000	1000	103000	670000	146500	2930	1465	150895	960000	233500	4670	2335	240505
520000	101500	2030	1015	104545	675000	148000	2960	1480	152440	970000	236500	4730	2365	243595
525000	103000	2060	1030	106090	680000	149500	2990	1495	153985	980000	239500	4790	2395	246685
530000	104500	2090	1045	107635	685000	151000	3020	1510	155530	990000	242500	4850	2425	249775
535000	106000	2120	1060	109180	690000	152500	3050	1525	157075	1000000	245500	4910	2455	252865

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

I-T. TABLEINDIVIDUAL BEING A WOMAN†
A. Y. 2008-09§

TABLE IX
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,36,640**ASSESSMENT YEAR 2008-09§****Accounting period:** Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME-TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.††		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.††		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2008, refer table 'XI' to 'XIV' on pp. 246-251.

1000000	245500	Nil	245500	4910	2455	252865	1020000	251500	14000	265500	5310.00	2655.00	273465.00
1002000	246100	1400	247500	4950	2475	254925	1022000	252100	15400	267500	5350.00	2675.00	275525.00
1004000	246700	2800	249500	4990	2495	256985	1024000	252700	16800	269500	5390.00	2695.00	277585.00
1006000	247300	4200	251500	5030	2515	259045	1026000	253300	18200	271500	5430.00	2715.00	279645.00
1008000	247900	5600	253500	5070	2535	261105	1028000	253900	19600	273500	5470.00	2735.00	281705.00
1010000	248500	7000	255500	5110	2555	263165	1030000	254500	21000	275500	5510.00	2755.00	283765.00
1012000	249100	8400	257500	5150	2575	265225	1032000	255100	22400	277500	5550.00	2775.00	285825.00
1014000	249700	9800	259500	5190	2595	267285	1034000	255700	23800	279500	5590.00	2795.00	287885.00
1016000	250300	11200	261500	5230	2615	269345	1036000	256300	25200	281500	5630.00	2815.00	289945.00
1018000	250900	12600	263500	5270	2635	271405	1036640	256492	25648	282140	5642.80	2821.40	290604.20

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

†† **Surcharge at the rate of 10%** on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part I of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,36,640 [Refer table above]. In cases, where deduction from income-tax is allowable u/s. 88E, do not compute surcharge & addl. S.C. and total from these columns.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 312-313.

TABLE X
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,36,650 & Rs. 11,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE : 10% OF THE INCOME-TAX††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.††		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. P.	ADDL. S.C.††		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	0.30	3.30	0.07	0.03	3.40	300	90	9	99	1.98	0.99	101.97
20	6	0.60	6.60	0.13	0.07	6.80	400	120	12	132	2.64	1.32	135.96
30	9	0.90	9.90	0.20	0.10	10.20	500	150	15	165	3.30	1.65	169.95
40	12	1.20	13.20	0.26	0.13	13.60	600	180	18	198	3.96	1.98	203.94
50	15	1.50	16.50	0.33	0.17	17.00	700	210	21	231	4.62	2.31	237.93
60	18	1.80	19.80	0.40	0.20	20.39	800	240	24	264	5.28	2.64	271.92
70	21	2.10	23.10	0.46	0.23	23.79	900	270	27	297	5.94	2.97	305.91
80	24	2.40	26.40	0.53	0.26	27.19	1000	300	30	330	6.60	3.30	339.90
90	27	2.70	29.70	0.59	0.30	30.59	2000	600	60	660	13.20	6.60	679.80
100	30	3.00	33.00	0.66	0.33	33.99	3000	900	90	990	19.80	9.90	1019.70
200	60	6.00	66.00	1.32	0.66	67.98	4000	1200	120	1320	26.40	13.20	1359.60

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2008. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2008, refer table 'XI' to 'XIV' on pp. 246-251.

1036650	256495	25649.50	282144.50	5642.89	2821.45	290608.84	1062000	264100	26410	290510	5810.20	2905.10	299225.30
1038000	256900	25690.00	282590.00	5651.80	2825.90	291067.70	1064000	264700	26470	291170	5823.40	2911.70	299905.10
1040000	257500	25750.00	283250.00	5665.00	2832.50	291747.50	1066000	265300	26530	291830	5836.60	2918.30	300584.90
1042000	258100	25810.00	283910.00	5678.20	2839.10	292427.30	1068000	265900	26590	292490	5849.80	2924.90	301264.70
1044000	258700	25870.00	284570.00	5691.40	2845.70	293107.10	1070000	266500	26650	293150	5863.00	2931.50	301944.50
1046000	259300	25930.00	285230.00	5704.60	2852.30	293786.90	1072000	267100	26710	293810	5876.20	2938.10	302624.30
1048000	259900	25990.00	285890.00	5717.80	2858.90	294466.70	1074000	267700	26770	294470	5889.40	2944.70	303304.10
1050000	260500	26050.00	286550.00	5731.00	2865.50	295146.50	1075000	268000	26800	294800	5896.00	2948.00	303644.00
1052000	261100	26110.00	287210.00	5744.20	2872.10	295826.30	1080000	269500	26950	296450	5929.00	2964.50	305343.50
1054000	261700	26170.00	287870.00	5757.40	2878.70	296506.10	1085000	271000	27100	298100	5962.00	2981.00	307043.00
1056000	262300	26230.00	288530.00	5770.60	2885.30	297185.90	1090000	272500	27250	299750	5995.00	2997.50	308742.50
1058000	262900	26290.00	289190.00	5783.80	2891.90	297865.70	1095000	274000	27400	301400	6028.00	3014.00	310442.00
1060000	263500	26350.00	289850.00	5797.00	2898.50	298545.50	1100000	275500	27550	303050	6061.00	3030.50	312141.50

For Note, **, †, ††, ‡ & §, refer Note, **, †, ††, ‡ & §, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2008-09:

			Income-tax	Surcharge	Sub-total of I.T. & S.C.	ADDL. S.C. E.C. S.H.E.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	33.00	3,399.00
For every	Rs. 1,000	..	300.00	30.00	330.00	6.60	3.30	339.90
For every	Rs. 100	..	30.00	3.00	33.00	0.66	0.33	33.99
For every	Rs. 10	..	3.00	0.30	3.30	0.07	0.03	3.40

TABLE XI
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†
WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,95,000 & Rs. 2,50,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	2	0.04	0.02	2.06	70	14	0.28	0.14	14.42	400	80	1.60	0.80	82.40
20	4	0.08	0.04	4.12	80	16	0.32	0.16	16.48	500	100	2.00	1.00	103.00
30	6	0.12	0.06	6.18	90	18	0.36	0.18	18.54	600	120	2.40	1.20	123.60
40	8	0.16	0.08	8.24	100	20	0.40	0.20	20.60	700	140	2.80	1.40	144.20
50	10	0.20	0.10	10.30	200	40	0.80	0.40	41.20	800	160	3.20	1.60	164.80
60	12	0.24	0.12	12.36	300	60	1.20	0.60	61.80	900	180	3.60	1.80	185.40

† This table is applicable to an individual, being resident in India,
 who is of the age of 65 years or more at any time during the financial year
 ending on 31-3-2008.

195000	Nil	Nil	Nil	Nil	196000	200	4.00	2.00	206.00	197000	400	8.00	4.00	412.00
195100	20	0.40	0.20	20.60	196100	220	4.40	2.20	226.60	197100	420	8.40	4.20	432.60
195200	40	0.80	0.40	41.20	196200	240	4.80	2.40	247.20	197200	440	8.80	4.40	453.20
195300	60	1.20	0.60	61.80	196300	260	5.20	2.60	267.80	197300	460	9.20	4.60	473.80
195400	80	1.60	0.80	82.40	196400	280	5.60	2.80	288.40	197400	480	9.60	4.80	494.40
195500	100	2.00	1.00	103.00	196500	300	6.00	3.00	309.00	197500	500	10.00	5.00	515.00
195600	120	2.40	1.20	123.60	196600	320	6.40	3.20	329.60	197600	520	10.40	5.20	535.60
195700	140	2.80	1.40	144.20	196700	340	6.80	3.40	350.20	197700	540	10.80	5.40	556.20
195800	160	3.20	1.60	164.80	196800	360	7.20	3.60	370.80	197800	560	11.20	5.60	576.80
195900	180	3.60	1.80	185.40	196900	380	7.60	3.80	391.40	197900	580	11.60	5.80	597.40
196000	200	4.00	2.00	206.00	197000	400	8.00	4.00	412.00	198000	600	12.00	6.00	618.00

Note: Income-tax tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 243B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 314-315.

TABLE XI — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.				Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.				Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.			
		EDU. CESS Rs.	P.	S. & H. ED. CESS Rs.	P.			EDU. CESS Rs.	P.	S. & H. ED. CESS Rs.	P.			EDU. CESS Rs.	P.	S. & H. ED. CESS Rs.	P.
198000	600	12.00		6.00		618.00	2200	44		22		2266	5400	108		54	
198100	620	12.40		6.20		638.60	2300	46		23		2369	5500	110		55	
198200	640	12.80		6.40		659.20	2400	48		24		2472	5600	112		56	
198300	660	13.20		6.60		679.80	2500	50		25		2575	5700	114		57	
198400	680	13.60		6.80		700.40	2600	52		26		2678	5800	116		58	
198500	700	14.00		7.00		721.00	2700	54		27		2781	5900	118		59	
198600	720	14.40		7.20		741.60	2800	56		28		2884	6000	120		60	
198700	740	14.80		7.40		762.20	2900	58		29		2987	6200	124		62	
198800	760	15.20		7.60		782.80	3000	60		30		3090	6400	128		64	
198900	780	15.60		7.80		803.40	3100	62		31		3193	6600	132		66	
199000	800	16.00		8.00		824.00	3200	64		32		3296	6800	136		68	
199100	820	16.40		8.20		844.60	3300	66		33		3399	7000	140		70	
199200	840	16.80		8.40		865.20	3400	68		34		3502	7200	144		72	
199300	860	17.20		8.60		885.80	3500	70		35		3605	7400	148		74	
199400	880	17.60		8.80		906.40	3600	72		36		3708	7600	152		76	
199500	900	18.00		9.00		927.00	3700	74		37		3811	7800	156		78	
199600	920	18.40		9.20		947.60	3800	76		38		3914	8000	160		80	
199700	940	18.80		9.40		968.20	3900	78		39		4017	8200	164		82	
199800	960	19.20		9.60		988.80	4000	80		40		4120	8400	168		84	
199900	980	19.60		9.80		1009.40	4100	82		41		4223	8600	172		86	
200000	1000	20.00		10.00		1030.00	4200	84		42		4326	8800	176		88	
200500	1100	22.00		11.00		1133.00	4300	86		43		4429	9000	180		90	
201000	1200	24.00		12.00		1236.00	4400	88		44		4532	9200	184		92	
201500	1300	26.00		13.00		1339.00	4500	90		45		4635	9400	188		94	
202000	1400	28.00		14.00		1442.00	4600	92		46		4738	9600	192		96	
202500	1500	30.00		15.00		1545.00	4700	94		47		4841	9800	196		98	
203000	1600	32.00		16.00		1648.00	4800	96		48		4944	10000	200		100	
203500	1700	34.00		17.00		1751.00	4900	98		49		5047	10200	204		102	
204000	1800	36.00		18.00		1854.00	5000	100		50		5150	10400	208		104	
204500	1900	38.00		19.00		1957.00	5100	102		51		5253	10600	212		106	
205000	2000	40.00		20.00		2060.00	5200	104		52		5356	10800	216		108	
205500	2100	42.00		21.00		2163.00	5300	106		53		5459	11000	220		110	

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE XII
INCOME-TAX, & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 2,50,000 & Rs. 10,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30% ††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
10	3	0.06	0.03	3.09	100	30	0.60	0.30	30.90	1000	300	6	3	309
20	6	0.12	0.06	6.18	200	60	1.20	0.60	61.80	2000	600	12	6	618
30	9	0.18	0.09	9.27	300	90	1.80	0.90	92.70	3000	900	18	9	927
40	12	0.24	0.12	12.36	400	120	2.40	1.20	123.60	4000	1200	24	12	1236
50	15	0.30	0.15	15.45	500	150	3.00	1.50	154.50	5000	1500	30	15	1545
60	18	0.36	0.18	18.54	600	180	3.60	1.80	185.40	6000	1800	36	18	1854
70	21	0.42	0.21	21.63	700	210	4.20	2.10	216.30	7000	2100	42	21	2163
80	24	0.48	0.24	24.72	800	240	4.80	2.40	247.20	8000	2400	48	24	2472
90	27	0.54	0.27	27.81	900	270	5.40	2.70	278.10	9000	2700	54	27	2781

† This table is applicable to an individual, being resident in India,
 who is of the age of 65 years or more at any time during the financial year
 ending on 31-3-2008.

250000	11000	220	110	11330	295000	24500	490	245	25235	340000	38000	760	380	39140
255000	12500	250	125	12875	300000	26000	520	260	26780	345000	39500	790	395	40685
260000	14000	280	140	14420	305000	27500	550	275	28325	350000	41000	820	410	42230
265000	15500	310	155	15965	310000	29000	580	290	29870	355000	42500	850	425	43775
270000	17000	340	170	17510	315000	30500	610	305	31415	360000	44000	880	440	45320
275000	18500	370	185	19055	320000	32000	640	320	32960	365000	45500	910	455	46865
280000	20000	400	200	20600	325000	33500	670	335	34505	370000	47000	940	470	48410
285000	21500	430	215	22145	330000	35000	700	350	36050	375000	48500	970	485	49955
290000	23000	460	230	23690	335000	36500	730	365	37595	380000	50000	1000	500	51500

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161), if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 10,00,000.**

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 234C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 314-319.

TABLE XII — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
380000	50000	1000	500	51500	535000	96500	1930	965	99395	695000	144500	2890	1445	148835
385000	51500	1030	515	53045	540000	98000	1960	980	100940	700000	146000	2920	1460	150380
390000	53000	1060	530	54590	545000	99500	1990	995	102485	710000	149000	2980	1490	153470
395000	54500	1090	545	56135	550000	101000	2020	1010	104030	720000	152000	3040	1520	156560
400000	56000	1120	560	57680	555000	102500	2050	1025	105575	730000	155000	3100	1550	159650
405000	57500	1150	575	59225	560000	104000	2080	1040	107120	740000	158000	3160	1580	162740
410000	59000	1180	590	60770	565000	105500	2110	1055	108665	750000	161000	3220	1610	165830
415000	60500	1210	605	62315	570000	107000	2140	1070	110210	760000	164000	3280	1640	168920
420000	62000	1240	620	63860	575000	108500	2170	1085	111755	770000	167000	3340	1670	172010
425000	63500	1270	635	65405	580000	110000	2200	1100	113300	780000	170000	3400	1700	175100
430000	65000	1300	650	66950	585000	111500	2230	1115	114845	790000	173000	3460	1730	178190
435000	66500	1330	665	68495	590000	113000	2260	1130	116390	800000	176000	3520	1760	181280
440000	68000	1360	680	70040	595000	114500	2290	1145	117935	810000	179000	3580	1790	184370
445000	69500	1390	695	71585	600000	116000	2320	1160	119480	820000	182000	3640	1820	187460
450000	71000	1420	710	73130	605000	117500	2350	1175	121025	830000	185000	3700	1850	190550
455000	72500	1450	725	74675	610000	119000	2380	1190	122570	840000	188000	3760	1880	193640
460000	74000	1480	740	76220	615000	120500	2410	1205	124115	850000	191000	3820	1910	196730
465000	75500	1510	755	77765	620000	122000	2440	1220	125660	860000	194000	3880	1940	199820
470000	77000	1540	770	79310	625000	123500	2470	1235	127205	870000	197000	3940	1970	202910
475000	78500	1570	785	80855	630000	125000	2500	1250	128750	880000	200000	4000	2000	206000
480000	80000	1600	800	82400	635000	126500	2530	1265	130295	890000	203000	4060	2030	209090
485000	81500	1630	815	83945	640000	128000	2560	1280	131840	900000	206000	4120	2060	212180
490000	83000	1660	830	85490	645000	129500	2590	1295	133385	910000	209000	4180	2090	215270
495000	84500	1690	845	87035	650000	131000	2620	1310	134930	920000	212000	4240	2120	218360
500000	86000	1720	860	88580	655000	132500	2650	1325	136475	930000	215000	4300	2150	221450
505000	87500	1750	875	90125	660000	134000	2680	1340	138020	940000	218000	4360	2180	224540
510000	89000	1780	890	91670	665000	135500	2710	1355	139565	950000	221000	4420	2210	227630
515000	90500	1810	905	93215	670000	137000	2740	1370	141110	960000	224000	4480	2240	230720
520000	92000	1840	920	94760	675000	138500	2770	1385	142655	970000	227000	4540	2270	233810
525000	93500	1870	935	96305	680000	140000	2800	1400	144200	980000	230000	4600	2300	236900
530000	95000	1900	950	97850	685000	141500	2830	1415	145745	990000	233000	4660	2330	239990
535000	96500	1930	965	99395	690000	143000	2860	1430	147290	1000000	236000	4720	2360	243080

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

TABLE XIII
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUALS BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,35,220

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.††		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.††		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs.	S. & H. ED. CESS P.						EDU. CESS Rs.	S. & H. ED. CESS P.	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual, being resident in India,
 who is of age of 65 years or more at any time during the financial year
 ending on 31-3-2008.

1000000	236000	Nil	236000	4720	2360	243080	1020000	242000	14000	256000	5120.00	2560.00	263680.00
1002000	236600	1400	238000	4760	2380	245140	1022000	242600	15400	258000	5160.00	2580.00	265740.00
1004000	237200	2800	240000	4800	2400	247200	1024000	243200	16800	260000	5200.00	2600.00	267800.00
1006000	237800	4200	242000	4840	2420	249260	1026000	243800	18200	262000	5240.00	2620.00	269860.00
1008000	238400	5600	244000	4880	2440	251320	1028000	244400	19600	264000	5280.00	2640.00	271920.00
1010000	239000	7000	246000	4920	2460	253380	1030000	245000	21000	266000	5320.00	2660.00	273980.00
1012000	239600	8400	248000	4960	2480	255440	1032000	245600	22400	268000	5360.00	2680.00	276040.00
1014000	240200	9800	250000	5000	2500	257500	1034000	246200	23800	270000	5400.00	2700.00	278100.00
1016000	240800	11200	252000	5040	2520	259560	1035000	246500	24500	271000	5420.00	2710.00	279130.00
1018000	241400	12600	254000	5080	2540	261620	1035220	246566	24654	271220	5424.40	2712.20	279356.60

Note: Income-tax payable on taxable income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161)], if any] is to be computed with reference to above table. For income-tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Income-tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% 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. 209-227]. From income-tax so arrived at, rebate of (deduction from) income-tax is to be allowed u/s. 88E to arrive at income-tax payable. For rebate of (deduction from) income-tax allowable u/s. 88E, refer page 229. For examples, refer pp. 293-297.

†† **Surcharge at the rate of 10%** on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part I of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,35,220 [Refer table above]. In cases, where deduction from income-tax is allowable u/s. 88E, do not compute surcharge & addl. S.C. and total from these columns.

‡ Self-assessment tax payable shall also include interest payable under sections 234A, 234B and 243C, if any. For details, refer page 179.

§ For estimated annual tax on "Salaries" and "advance tax" payable during the financial year ending on 31-3-2009, refer pp. 320-321.

TABLE XIV
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUALS BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,35,230 & Rs. 11,00,000

ASSESSMENT YEAR 2008-09§

Accounting period: Financial year ending 31-3-2008.

The table given hereunder may be referred for the purposes of:

(1) *SELF ASSESSMENT* ‡ and (2) *REGULAR ASSESSMENT*

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE: 10% OF INCOME TAX††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC & H. EDU. CESS @ 1% 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 P. S. & H. ED. CESS P.		Total of I.T., S.C. & ADDL. S.C. Rs. P.		Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs. P.		Sub-total of I.T. & S.C. †† Rs. P.		ADDL. S.C. †† EDU. CESS P. S. & H. ED. CESS P.		Total of I.T., S.C. & ADDL. S.C. Rs. P.	
10	3	0.30		3.30		0.07	0.03	3.40		300	90	9		99		1.98	0.99	101.97	
20	6	0.60		6.60		0.13	0.07	6.80		400	120	12		132		2.64	1.32	135.96	
30	9	0.90		9.90		0.20	0.10	10.20		500	150	15		165		3.30	1.65	169.95	
40	12	1.20		13.20		0.26	0.13	13.60		600	180	18		198		3.96	1.98	203.94	
50	15	1.50		16.50		0.33	0.17	17.00		700	210	21		231		4.62	2.31	237.93	
60	18	1.80		19.80		0.40	0.20	20.39		800	240	24		264		5.28	2.64	271.92	
70	21	2.10		23.10		0.46	0.23	23.79		900	270	27		297		5.94	2.97	305.91	
80	24	2.40		26.40		0.53	0.26	27.19		1000	300	30		330		6.60	3.30	339.90	
90	27	2.70		29.70		0.59	0.30	30.59		2000	600	60		660		13.20	6.60	679.80	
100	30	3.00		33.00		0.66	0.33	33.99		3000	900	90		990		19.80	9.90	1019.70	
200	60	6.00		66.00		1.32	0.66	67.98		4000	1200	120		1320		26.40	13.20	1359.60	

† This table is applicable to an individual, being resident in India,
 who is of age of 65 years or more at any time during the financial year
 ending on 31-3-2008.

1035230	246569	24656.90	271225.90	5424.52	2712.26	279362.68	1062000	254600	25460	280060	5601.20	2800.60	288461.80
1038000	247400	24740.00	272140.00	5442.80	2721.40	280304.20	1064000	255200	25520	280720	5614.40	2807.20	289141.60
1040000	248000	24800.00	272800.00	5456.00	2728.00	280984.00	1066000	255800	25580	281380	5627.60	2813.80	289821.40
1042000	248600	24860.00	273460.00	5469.20	2734.60	281663.80	1068000	256400	25640	282040	5640.80	2820.40	290501.20
1044000	249200	24920.00	274120.00	5482.40	2741.20	282343.60	1070000	257000	25700	282700	5654.00	2827.00	291181.00
1046000	249800	24980.00	274780.00	5495.60	2747.80	283023.40	1072000	257600	25760	283360	5667.20	2833.60	291860.80
1048000	250400	25040.00	275440.00	5508.80	2754.40	283703.20	1074000	258200	25820	284020	5680.40	2840.20	292540.60
1050000	251000	25100.00	276100.00	5522.00	2761.00	284383.00	1075000	258500	25850	284350	5687.00	2843.50	292880.50
1052000	251600	25160.00	276760.00	5535.20	2767.60	285062.80	1080000	260000	26000	286000	5720.00	2860.00	294580.00
1054000	252200	25220.00	277420.00	5548.40	2774.20	285742.60	1085000	261500	26150	287650	5753.00	2876.50	296279.50
1056000	252800	25280.00	278080.00	5561.60	2780.80	286422.40	1090000	263000	26300	289300	5786.00	2893.00	297979.00
1058000	253400	25340.00	278740.00	5574.80	2787.40	287102.20	1095000	264500	26450	290950	5819.00	2909.50	299678.50
1060000	254000	25400.00	279400.00	5588.00	2794.00	287782.00	1100000	266000	26600	292600	5852.00	2926.00	301378.00

For Note, **, ††, ‡ & §, refer Note, **, ††, ‡ & §, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2008-09:

				Income-tax	Surcharge	Sub-total of I.T. & S.C.	ADDL. S.C. E.C. S.H.E.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	33.00	3,399.00
For every	Rs.	1,000	..	300.00	30.00	330.00	6.60	3.30	339.90
For every	Rs.	100	..	30.00	3.00	33.00	0.66	0.33	33.99
For every	Rs.	10	..	3.00	0.30	3.30	0.07	0.03	3.40

EXAMPLES FOR FIRM FOR ASSESSMENT YEAR 2008-09:

(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. 72,000 as simple interest @ 12% p.a. on Rs. 6,00,000 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 firm² (after debiting interest and remuneration to partners) for the financial year ending 31-3-2008 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. 72,000 + Rs. 84,000)	Rs.	1,56,000
	Rs.	1,74,500
Less: Interest and remuneration paid to partners allowable u/s. 40(b)(iv)/40(b)(v) ¹	Rs.	1,56,000
Taxable income of the firm	Rs.	18,500
I.T. and Additional surcharge on I.T. payable by the firm on taxable income of Rs. 18,500 (Refer table on page 254)	Rs.	5,717

(B) INCOME-TAX PAYABLE BY THE PARTNERS—

	Mr. A (aged 45 yrs.)	Mr. B (aged 60 yrs.)
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. 72,000	Rs. 84,000
Other sources:		
Interest income on deposits with companies	Rs. 68,000	Rs. 76,000
Gross total income	Rs. 1,40,000	Rs. 1,60,000
Less: Deduction u/s. 80C: @ 100% of life insurance premia paid Rs. 20,000	Rs. 20,000	
Deduction u/s. 80D: @ 100% of medical insurance premia paid Rs. 5,000	Rs. 5,000	Rs. 5,000
Taxable income	Rs. 1,15,000	Rs. 1,35,000
I.T. & Addl. S.C. on I.T. payable on taxable income of Rs. 1,15,000/Rs. 1,35,000 (Refer page 231)	Rs. 515	Rs. 2,575
Aggregate of tax payable by the firm & partners (Rs. 5,717 + Rs. 515 + Rs. 2,575)		Rs. 8,807

(2) In *Example (1)* above if, partner Mr. A is entitled to Rs. 1,26,000 as simple interest @ 21% on capital of Rs. 6,00,000, working partner Mr. B is entitled to Rs. 1,44,000 as remuneration and net profit² (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 & remuneration to partners)	Rs.	18,500
Add: Interest and remuneration paid to partners (Rs. 1,26,000 + Rs. 1,44,000)	Rs.	2,70,000
	Rs.	2,88,500
Less: Interest paid to Mr. A @ 21% p.a. Rs. 1,26,000. Allowable u/s. 40(b)(iv) @ 12% p.a. on Rs. 6,00,000	Rs.	72,000
Book-profit ³ for the purpose of section 40(b)(v) [Vide <i>Explanation 3</i> to section 40(b)]	Rs.	2,16,500
Less: Remuneration paid to Mr. B. Rs. 1,44,000. 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. 66,500 [Rs. 2,16,500 less Rs. 1,50,000] of the book-profit @ 40%	Rs.	26,600
Taxable income of the firm	Rs.	77,400
I.T. and Additional surcharge on I.T. payable by the firm on taxable income of Rs. 77,400 (Refer table on page 254)	Rs.	23,917

[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. 186-187.

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 44DB].

3. 'Book-profit' means the net profit as per profit & loss A/c computed u/s. 28 to 44DB. 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—**

	Mr. A (aged 45 yrs.)	Mr. B (aged 60 yrs.)
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. 72,000/Rs. 1,39,100 and not Rs. 1,26,000/Rs. 1,44,000]	Rs. 72,000	Rs. 1,39,100
Other sources:		
Interest income on deposits with companies	Rs. 68,000	Rs. 76,000
Gross total income	Rs. 1,40,000	Rs. 2,15,100
<i>Less:</i> Deduction u/s. 80C:		
@ 100% of life insurance premia paid Rs. 20,000	Rs. 20,000	Rs. 20,000
Deduction u/s. 80D:		
@ 100% of medical insurance premia paid Rs. 5,000	Rs. 5,000	Rs. 5,000
Taxable income	<u>Rs. 1,15,000</u>	<u>Rs. 1,90,100</u>
I.T. & Addl. S.C. on I.T. payable on taxable income of Rs. 1,15,000/ Rs. 1,90,100 (Refer page 231/232-233)	<u>Rs. 515</u>	<u>Rs. 12,381</u>
Aggregate of tax payable by the firm & partners (Rs. 23,917 + Rs. 515 + Rs. 12,381)		<u>Rs. 36,813</u>

I - T. TABLE

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FIRM TAX

A. Y. 2008-09 & 2009-10

INCOME-TAX, S.C.⁴ & ADDL. S.C.⁵ FOR FIRMS ONLY**ASSESSMENT YEARS 2008-09 & 2009-10****Accounting period:** Financial year ending 31-3-2008 & 31-3-2009.

The table given hereunder may be referred for the purposes of:

(1) **SELF ASSESSMENT⁶** and **REGULAR ASSESSMENT** for assessment year 2008-09.(2) **"ADVANCE TAX"** payable during the financial year ending 31-3-2009.FLAT RATE: INCOME-TAX @ 30% SURCHARGE: 10% OF INCOME-TAX WHERE TAXABLE INCOME EXCEEDS Rs. ONE CRORE⁴ADDITIONAL SURCHARGE: (1) EDUCATION CESS @ 2% of I.T. & S.C.⁵; (2) SEC. & HIGH. EDU. CESS @ 1% of I.T. & S.C.⁵

Taxable Income ⁷	I.T.	ADDL. S.C. ⁷		Total	Taxable Income ⁷	I.T.	ADDL. S.C. ⁷		Total	Taxable Income ⁷	I.T.	ADDL. S.C. ⁷		Total
		EDU. CESS	S. & H. ED. CESS				EDU. CESS	S. & H. ED. CESS				EDU. CESS	S. & H. ED. CESS	
Rs.	Rs.	Rs.	P.	Rs. P.	Rs.	Rs.	Rs.	P.	Rs. P.	Rs.	Rs.	Rs.	P.	Rs.
10	3	0.06	0.03	3.09	200	60	1.20	0.60	61.80	3000	900	18	9	927
20	6	0.12	0.06	6.18	300	90	1.80	0.90	92.70	4000	1200	24	12	1236
30	9	0.18	0.09	9.27	400	120	2.40	1.20	123.60	5000	1500	30	15	1545
40	12	0.24	0.12	12.36	500	150	3.00	1.50	154.50	6000	1800	36	18	1854
50	15	0.30	0.15	15.45	600	180	3.60	1.80	185.40	7000	2100	42	21	2163
60	18	0.36	0.18	18.54	700	210	4.20	2.10	216.30	8000	2400	48	24	2472
70	21	0.42	0.21	21.63	800	240	4.80	2.40	247.20	9000	2700	54	27	2781
80	24	0.48	0.24	24.72	900	270	5.40	2.70	278.10	10000	3000	60	30	3090
90	27	0.54	0.27	27.81	1000	300	6.00	3.00	309.00	20000	6000	120	60	6180
100	30	0.60	0.30	30.90	2000	600	12.00	6.00	618.00	30000	9000	180	90	9270
200	60	1.20	0.60	61.80	3000	900	18.00	9.00	927.00	40000	12000	240	120	12360
100	30	0.60	0.30	30.90	30000	9000	180	90	9270	400000	120000	2400	1200	123600
1000	300	6.00	3.00	309.00	40000	12000	240	120	12360	450000	135000	2700	1350	139050
2000	600	12.00	6.00	618.00	50000	15000	300	150	15450	500000	150000	3000	1500	154500
3000	900	18.00	9.00	927.00	60000	18000	360	180	18540	550000	165000	3300	1650	169950
4000	1200	24.00	12.00	1236.00	70000	21000	420	210	21630	600000	180000	3600	1800	185400
5000	1500	30.00	15.00	1545.00	80000	24000	480	240	24720	650000	195000	3900	1950	200850
6000	1800	36.00	18.00	1854.00	90000	27000	540	270	27810	700000	210000	4200	2100	216300
7000	2100	42.00	21.00	2163.00	100000	30000	600	300	30900	750000	225000	4500	2250	231750
8000	2400	48.00	24.00	2472.00	150000	45000	900	450	46350	800000	240000	4800	2400	247200
9000	2700	54.00	27.00	2781.00	200000	60000	1200	600	61800	850000	255000	5100	2550	262650
10000	3000	60.00	30.00	3090.00	250000	75000	1500	750	77250	900000	270000	5400	2700	278100
20000	6000	120.00	60.00	6180.00	300000	90000	1800	900	92700	950000	285000	5700	2850	293550
30000	9000	180.00	90.00	9270.00	350000	105000	2100	1050	108150	1000000	300000	6000	3000	309000

4. Surcharge at the rate of 10% on income-tax is payable where the taxable income exceeds rupees one crore (i.e., Rs. 1,00,00,000) vide Paragraph C of Part I/III of the First Schedule to the Finance Act, 2008. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008. The total amount payable as income-tax and surcharge on such income shall not exceed the amount payable as income-tax on a total (taxable) income of Rs. 1,00,00,000 by more than the amount of income that exceeds Rs. 1,00,00,000 [Vide proviso to Paragraph C of Part I/III of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 1,00,00,010 & Rs. 1,04,47,760. Additional surcharge @ 2% & @ 1% of the aggregate of I.T. & S.C. so computed is also payable.

5. Additional surcharge @ 2% & @ 1% of I.T. & S.C., if any, is payable on the whole amount of income-tax & S.C., if any, as no ceiling limit of total (taxable) income is provided in the Finance Act, 2008.

6. Self-assessment tax shall also include interest payable u/s. 234A, 234B & 234C, if any. For details, refer page 179.

7. Where the total (taxable) income/current income of the firm include taxable long-term capital gains and short-term capital gains referred to in section 111A, the income-tax/advance tax on total (taxable) income/current income, as reduced by long-term capital gains & the said short-term capital gains, is to be computed with reference to the above table. Income-tax/advance tax on long-term capital gains/the said short-term capital gains, is to be computed at the flat rate prescribed in section 112(1)(d)(ii)/111A(1)(i). The income-tax/advance tax payable by the firm, is the sum total of income-tax/advance tax on total (taxable) income/current income [as reduced by the long-term capital gains/the said short-term capital gains], and the income-tax/advance tax on long-term capital gains/said short-term capital gains. The aggregate amount of income-tax/advance tax so arrived at is to be increased by S.C. on I.T. where the taxable income exceeds Rs. 1,00,00,000 (refer footnote 4 above) and further increased by an addl. S.C. @ 2% & @ 1% of aggregate of I.T. & S.C. The resultant sum so arrived at is the tax/advance tax payable by the firm.

CO-OPERATIVE SOCIETIES^{1/2}

DEDUCTION IN RESPECT OF INCOME OF CO-OPERATIVE SOCIETIES UNDER SECTION 80P(2):

- (a) in the case of a co-operative society engaged in—
- carrying on the business of banking² or providing credit facilities to its members, or
 - a cottage industry, or
 - the marketing of agricultural produce grown by its members, or
 - the purchase of agricultural implements, seeds, live-stock or other articles intended for agriculture for the purpose of supplying them to its members, or
 - the processing, without the aid of power, of the agricultural produce of its members, or
 - the collective disposal of the labour of its members, or
 - 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:—

- the individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities;
- the co-operative credit societies which provide financial assistance to the society;
- 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—

- 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
- the Government or a local authority; or
- 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,—

- where such co-operative society is a consumers' co-operative society, one hundred thousand rupees; and
- 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 31-3-2008 (assessment year 2008-09) under various heads is as under:

(1) Income from cottage industry	Rs.	15,000
(2) Marketing of agricultural produce grown by its members	Rs.	10,000
(3) Income from purchase and sale of agricultural implements to its members	Rs.	10,000
(4) Profits & gains of business	Rs.	75,000
(5) Interest and dividend from other co-operative society	Rs.	10,000

Gross total income .. Rs. 1,20,000

Less:—Deductions under section 80P:

(1) Income from cottage industry [80P(2)(a)(ii)]	Rs.	15,000
(2) Marketing of agricultural produce grown by its members [80P(2)(a)(iii)]	Rs.	10,000
(3) Income from purchase and sale of agricultural implements to its members [80P(2)(a)(iv)]	Rs.	10,000
(4) Profits & gains of business [80P(2)(c)(ii)]	Rs.	50,000
(5) Interest and dividend from other co-operative society [80P(2)(d)]	Rs.	10,000

Taxable income .. Rs. 25,000

1. Income of a co-operative society referred to in section 10(27) is exempt [Refer Para 6A.32 on page 207].

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].

2. **From assessment year 2007-08 and onwards, deduction u/s. 80P is not available to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank [Section 80P(4)].**

INCOME-TAX† & ADDL. S.C.³ FOR CO-OPERATIVE SOCIETIES**ASSESSMENT YEARS 2008-09 & 2009-10**

INCOME BETWEEN Rs. 10 & Rs. 10,000 SLAB RATE: I.T. @ 10% ADDL. S.C. @ 3% OF I.T. ³				INCOME BETWEEN Rs. 10,000 & Rs. 20,000 SLAB RATE: I.T. @ 20% ADDL. S.C. @ 3% OF I.T. ³				INCOME ABOVE Rs. 20,000 SLAB RATE: I.T. @ 30% ADDL. S.C. @ 3% OF I.T. ³							
Taxable Income Rs.	I.T. Rs.	ADDL. S.C. ³ Rs. P.	Total Rs. P.	Taxable Income Rs.	I.T. Rs.	ADDL. S.C. ³ Rs. P.	Total Rs. P.	Taxable Income Rs.	I.T. Rs.	ADDL. S.C. ³ Rs. P.	Total Rs. P.	Taxable Income Rs.	I.T. Rs.	ADDL. S.C. ³ Rs. P.	Total Rs. P.
10	1	0.03	1.03	10	2	0.06	2.06	10	3	0.09	3.09	500	150	4.50	154.50
20	2	0.06	2.06	20	4	0.12	4.12	20	6	0.18	6.18	600	180	5.40	185.40
30	3	0.09	3.09	30	6	0.18	6.18	30	9	0.27	9.27	700	210	6.30	216.30
40	4	0.12	4.12	40	8	0.24	8.24	40	12	0.36	12.36	800	240	7.20	247.20
50	5	0.15	5.15	50	10	0.30	10.30	50	15	0.45	15.45	900	270	8.10	278.10
60	6	0.18	6.18	60	12	0.36	12.36	60	18	0.54	18.54	1000	300	9.00	309.00
70	7	0.21	7.21	70	14	0.42	14.42	70	21	0.63	21.63	2000	600	18.00	618.00
80	8	0.24	8.24	80	16	0.48	16.48	80	24	0.72	24.72	3000	900	27.00	927.00
90	9	0.27	9.27	90	18	0.54	18.54	90	27	0.81	27.81	4000	1200	36.00	1236.00
100	10	0.30	10.30	100	20	0.60	20.60	100	30	0.90	30.90	5000	1500	45.00	1545.00
200	20	0.60	20.60	200	40	1.20	41.20	200	60	1.80	61.80	6000	1800	54.00	1854.00
300	30	0.90	30.90	300	60	1.80	61.80	300	90	2.70	92.70	8000	2400	72.00	2472.00
400	40	1.20	41.20	400	80	2.40	82.40	400	120	3.60	123.60	9000	2700	81.00	2781.00
500	50	1.50	51.50	10000	1000	30	1030	20000	3000	90	3090	200000	57000	1710	58710
1000	100	3.00	103.00	10500	1100	33	1133	25000	4500	135	4635	210000	60000	1800	61800
1500	150	4.50	154.50	11000	1200	36	1236	30000	6000	180	6180	220000	63000	1890	64890
2000	200	6.00	206.00	11500	1300	39	1339	35000	7500	225	7725	230000	66000	1980	67980
2500	250	7.50	257.50	12000	1400	42	1442	40000	9000	270	9270	240000	69000	2070	71070
3000	300	9.00	309.00	12500	1500	45	1545	45000	10500	315	10815	250000	72000	2160	74160
3500	350	10.50	360.50	13000	1600	48	1648	50000	12000	360	12360	260000	75000	2250	77250
4000	400	12.00	412.00	13500	1700	51	1751	60000	15000	450	15450	270000	78000	2340	80340
4500	450	13.50	463.50	14000	1800	54	1854	70000	18000	540	18540	280000	81000	2430	83430
5000	500	15.00	515.00	14500	1900	57	1957	80000	21000	630	21630	290000	84000	2520	86520
5500	550	16.50	566.50	15000	2000	60	2060	90000	24000	720	24720	300000	87000	2610	89610
6000	600	18.00	618.00	15500	2100	63	2163	100000	27000	810	27810	310000	90000	2700	92700
6500	650	19.50	669.50	16000	2200	66	2266	110000	30000	900	30900	320000	93000	2790	95790
7000	700	21.00	721.00	16500	2300	69	2369	120000	33000	990	33990	330000	96000	2880	98880
7500	750	22.50	772.50	17000	2400	72	2472	130000	36000	1080	37080	340000	99000	2970	101970
8000	800	24.00	824.00	17500	2500	75	2575	140000	39000	1170	40170	350000	102000	3060	105060
8500	850	25.50	875.50	18000	2600	78	2678	150000	42000	1260	43260	360000	105000	3150	108150
9000	900	27.00	927.00	18500	2700	81	2781	160000	45000	1350	46350	370000	108000	3240	111240
9500	950	28.50	978.50	19000	2800	84	2884	170000	48000	1440	49440	380000	111000	3330	114330
9700	970	29.10	999.10	19500	2900	87	2987	180000	51000	1530	52530	390000	114000	3420	117420
10000	1000	30.00	1030.00	20000	3000	90	3090	190000	54000	1620	55620	400000	117000	3510	120510

Note: Where the taxable income/current income consists of taxable long-term capital gains and short-term capital gains referred to in section 111A, income-tax/advance tax³ on the taxable income/current income, as reduced by long-term capital gains and said short-term capital gains, is to be computed with reference to above table. Income-tax/advance tax³ on long-term capital gains/said short-term capital gains is to be calculated @ the flat rate prescribed in section 112(1)(d)(ii)/111A(1)(i). The income-tax³/advance tax³ payable is, the sum total of income-tax/advance tax³ on taxable income (as reduced by long-term capital gains/said short-term capital gains) and income-tax³/advance tax³ on long-term capital gains/said short-term capital gains. The resultant sum so arrived at is the income-tax³/advance tax³ payable by the co-operative society.

† S.C. on I.T. is not payable for assessment year 2008-09 & 2009-10 vide Paragraph B of Part I and Part III of the First Schedule to the Finance Act, 2008.

3. For assessment year 2008-09 and 2009-10, income-tax/advance tax payable on total income is to be increased by an additional surcharge [i.e., Education Cess and Sec. High Edu. Cess] @ 2% plus 1% on income-tax i.e., 3% on income-tax.

INCOME TAX & ADDL. S.C.¹ FOR PRIVATE AND PUBLIC LIMITED COMPANIES

ASSESSMENT YEARS 2008-09 & 2009-10

Taxable Income ² Rs.	DOMESTIC COMPANY (Private & Public)				FOREIGN COMPANY							
					Royalties and fees ³				On the balance, if any, of the total income			
	ADDL. S.C.				ADDL. S.C.				ADDL. S.C.			
	I.T. @ 30% Rs.	E.C. @ 2% of I.T. Rs. P.	S. & H. E. C. @ 1% of I.T. Rs. P.	Total Rs. P.	I.T. @ 50% Rs.	E.C. @ 2% of I.T. Rs. P.	S. & H. E. C. @ 1% of I.T. Rs. P.	Total Rs. P.	I.T. @ 40% Rs.	E.C. @ 2% of I.T. Rs. P.	S. & H. E. C. @ 1% of I.T. Rs. P.	Total Rs. P.
10	3	0.06	0.03	3.09	5	0.10	0.05	5.15	4	0.08	0.04	4.12
20	6	0.12	0.06	6.18	10	0.20	0.10	10.30	8	0.16	0.08	8.24
30	9	0.18	0.09	9.27	15	0.30	0.15	15.45	12	0.24	0.12	12.36
40	12	0.24	0.12	12.36	20	0.40	0.20	20.60	16	0.32	0.16	16.48
50	15	0.30	0.15	15.45	25	0.50	0.25	25.75	20	0.40	0.20	20.60
60	18	0.36	0.18	18.54	30	0.60	0.30	30.90	24	0.48	0.24	24.72
70	21	0.42	0.21	21.63	35	0.70	0.35	36.05	28	0.56	0.28	28.84
80	24	0.48	0.24	24.72	40	0.80	0.40	41.20	32	0.64	0.32	32.96
90	27	0.54	0.27	27.81	45	0.90	0.45	46.35	36	0.72	0.36	37.08
100	30	0.60	0.30	30.90	50	1	0.50	51.50	40	0.80	0.40	41.20
200	60	1.20	0.60	61.80	100	2	1.00	103.00	80	1.60	0.80	82.40
300	90	1.80	0.90	92.70	150	3	1.50	154.50	120	2.40	1.20	123.60
400	120	2.40	1.20	123.60	200	4	2.00	206.00	160	3.20	1.60	164.80
500	150	3.00	1.50	154.50	250	5	2.50	257.50	200	4.00	2.00	206.00
600	180	3.60	1.80	185.40	300	6	3.00	309.00	240	4.80	2.40	247.20
700	210	4.20	2.10	216.30	350	7	3.50	360.50	280	5.60	2.80	288.40
800	240	4.80	2.40	247.20	400	8	4.00	412.00	320	6.40	3.20	329.60
900	270	5.40	2.70	278.10	450	9	4.50	463.50	360	7.20	3.60	370.80
1,000	300	6	3	309	500	10	5	515	400	8	4	412
2,000	600	12	6	618	1,000	20	10	1,030	800	16	8	824
3,000	900	18	9	927	1,500	30	15	1,545	1,200	24	12	1,236
4,000	1,200	24	12	1,236	2,000	40	20	2,060	1,600	32	16	1,648
5,000	1,500	30	15	1,545	2,500	50	25	2,575	2,000	40	20	2,060
6,000	1,800	36	18	1,854	3,000	60	30	3,090	2,400	48	24	2,472
7,000	2,100	42	21	2,163	3,500	70	35	3,605	2,800	56	28	2,884
8,000	2,400	48	24	2,472	4,000	80	40	4,120	3,200	64	32	3,296
9,000	2,700	54	27	2,781	4,500	90	45	4,635	3,600	72	36	3,708
10,000	3,000	60	30	3,090	5,000	100	50	5,150	4,000	80	40	4,120
20,000	6,000	120	60	6,180	10,000	200	100	10,300	8,000	160	80	8,240
30,000	9,000	180	90	9,270	15,000	300	150	15,450	12,000	240	120	12,360
40,000	12,000	240	120	12,360	20,000	400	200	20,600	16,000	320	160	16,480
50,000	15,000	300	150	15,450	25,000	500	250	25,750	20,000	400	200	20,600
60,000	18,000	360	180	18,540	30,000	600	300	30,900	24,000	480	240	24,720
70,000	21,000	420	210	21,630	35,000	700	350	36,050	28,000	560	280	28,840
80,000	24,000	480	240	24,720	40,000	800	400	41,200	32,000	640	320	32,960
90,000	27,000	540	270	27,810	45,000	900	450	46,350	36,000	720	360	37,080
1,00,000	30,000	600	300	30,900	50,000	1,000	500	51,500	40,000	800	400	41,200
2,00,000	60,000	1,200	600	61,800	1,00,000	2,000	1,000	1,03,000	80,000	1,600	800	82,400
3,00,000	90,000	1,800	900	92,700	1,50,000	3,000	1,500	1,54,500	1,20,000	2,400	1,200	1,23,600
4,00,000	1,20,000	2,400	1,200	1,23,600	2,00,000	4,000	2,000	2,06,000	1,60,000	3,200	1,600	1,64,800
5,00,000	1,50,000	3,000	1,500	1,54,500	2,50,000	5,000	2,500	2,57,500	2,00,000	4,000	2,000	2,06,000
6,00,000	1,80,000	3,600	1,800	1,85,400	3,00,000	6,000	3,000	3,09,000	2,40,000	4,800	2,400	2,47,200
7,00,000	2,10,000	4,200	2,100	2,16,300	3,50,000	7,000	3,500	3,60,500	2,80,000	5,600	2,800	2,88,400
8,00,000	2,40,000	4,800	2,400	2,47,200	4,00,000	8,000	4,000	4,12,000	3,20,000	6,400	3,200	3,29,600
9,00,000	2,70,000	5,400	2,700	2,78,100	4,50,000	9,000	4,500	4,63,500	3,60,000	7,200	3,600	3,70,800
10,00,000	3,00,000	6,000	3,000	3,09,000	5,00,000	10,000	5,000	5,15,000	4,00,000	8,000	4,000	4,12,000
20,00,000	6,00,000	12,000	6,000	6,18,000	10,00,000	20,000	10,000	10,30,000	8,00,000	16,000	8,000	8,24,000
30,00,000	9,00,000	18,000	9,000	9,27,000	15,00,000	30,000	15,000	15,45,000	12,00,000	24,000	12,000	12,36,000
40,00,000	12,00,000	24,000	12,000	12,36,000	20,00,000	40,000	20,000	20,60,000	16,00,000	32,000	16,000	16,48,000
50,00,000	15,00,000	30,000	15,000	15,45,000	25,00,000	50,000	25,000	25,75,000	20,00,000	40,000	20,000	20,60,000
60,00,000	18,00,000	36,000	18,000	18,54,000	30,00,000	60,000	30,000	30,90,000	24,00,000	48,000	24,000	24,72,000
70,00,000	21,00,000	42,000	21,000	21,63,000	35,00,000	70,000	35,000	36,05,000	28,00,000	56,000	28,000	28,84,000
80,00,000	24,00,000	48,000	24,000	24,72,000	40,00,000	80,000	40,000	41,20,000	32,00,000	64,000	32,000	32,96,000
90,00,000	27,00,000	54,000	27,000	27,81,000	45,00,000	90,000	45,000	46,35,000	36,00,000	72,000	36,000	37,08,000
1,00,00,000	30,00,000	60,000	30,000	30,90,000	50,00,000	1,00,000	50,000	51,50,000	40,00,000	80,000	40,000	41,20,000

1. Surcharge at the rate of 10% (in the case of a "Domestic Company")/2.5% (in the case of a "Foreign Company"), is payable where the taxable income exceeds rupees one crore (i.e., Rs. 1,00,00,000) vide proviso Paragraph E of Part I/III of the First Schedule to the Finance Act, 2008. In such cases surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008. The total amount payable as income-tax and surcharge on such income shall not exceed the amount payable as income-tax on a total (taxable) income of Rs. 1,00,00,000 by more than the amount of income that exceeds Rs. 1,00,00,000 [Vide proviso to Paragraph E of Part I/III of the First Schedule to the Finance Act, 2008]. Addl. S.C. @ 2% & @ 1% of the aggregate of I.T. & S.C. so computed is also payable.

2. Refer footnote No. 7 on page 260.

3. Refer footnote No. 8 on page 260.

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 aggregate of 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					
	2008-09			2009-10		
	Rate of			Rate of		
	I.T.	S.C.†	Addl. S.C.*	I.T.	S.C.†	Addl. S.C.*
On the whole of the total income [as reduced by long-term capital gains ⁴ & short-term capital gains referred to in section 111A ⁴]	30%	10% of I.T.	2% plus 1% of I.T. & S.C.	30%	10% of I.T.	2% plus 1% of I.T. & S.C.

	ASSESSMENT YEAR					
	2008-09			2009-10		
EXAMPLE: (1) The total income, as reduced by long-term capital gains/short-term capital gains referred to in section 111A, of a domestic company is ..	Rs.	50,000	Rs.	60,000		
I.T. @ 30%/30% on total (taxable) income Rs. 50,000/Rs. 60,000	Rs.	15,000	Rs.	18,000		
Surcharge @ Nil% on income-tax Rs. 15,000/Rs. 18,000	Rs.	NIL‡	Rs.	NIL‡		
Addl. S.C. @ 2% plus 1% on I.T. Rs. 15,000/Rs. 18,000	Rs.	450	Rs.	540		
Total tax/advance tax	Rs.	15,450	Rs.	18,540		

ASSESSMENT YEAR 2008-09:

EXAMPLE: (2) The total income of a domestic company for the financial year ending on 31-3-2008 (assessment year 2008-09) 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 being <i>land</i> [arose on 19-12-2007]	Rs.	20,000		
(b) Long-term capital gains on transfer of capital assets being <i>land</i> :				
Sale proceeds [received on 12-12-2007]	Rs.	5,68,800		
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) × 551 ⁵ (Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100 ⁵ (Cost Inflation Index of the financial year of acquisition i.e., 1981-82).. ..	Rs.	4,40,800	Rs.	1,28,000
3. Dividend income from domestic company referred to in section 115-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, long-term capital gains [Refer (C)] and also short-term capital gains u/s. 111A i.e., 10% of Rs. 15,80,000.. ..	Rs.	1,58,000		
50% of qualifying amount 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 long-term capital gains	(F)	Rs.	16,29,000	

4. Refer footnote No. 7 on page 260.

5. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

† Where total (taxable) income inclusive of long-term capital gains and short-term capital gains exceeds Rs. 1,00,00,000 (one crore), surcharge at the rate of 10% on income-tax is also payable by domestic companies in respect of income-tax computed on long-term capital gains u/s. 112(1) and short-term capital gains u/s. 111A(1).

* For assessment years 2008-09/2009-10, additional surcharge (i.e., Education Cess) at the rate of 2% plus additional surcharge (i.e., Secondary and Higher Education Cess) at the rate of 1%, of aggregate of I.T. & S.C. is payable by a "Domestic company". Addl. S.C. on I.T. & S.C. (if any) is also payable by domestic company in respect of income-tax computed on long-term capital gains u/s. 112(1) and short-term capital gains u/s. 111A(1).

‡ For assessment years 2008-09 & 2009-10, surcharge on income-tax is payable by the domestic company having total (taxable) income exceeding Rs. 1,00,00,000 (one crore), at the rate of 10% of such income-tax.

(b) COMPUTATION OF TAX:

Income-tax @ 30% on Rs. 15,01,000 [Total (taxable) income exclusive of long-term capital gains. Refer (D)]	Rs. 4,50,300
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 Rs. 16,29,000 [Refer (F)]	Rs. 4,75,900
Add: Additional surcharge† @ 2% plus 1% of I.T. Rs. 4,75,900	Rs. 14,277
Tax payable on total (taxable) income Rs. 16,29,000 [Refer (F)]	Rs. 4,90,177
Rounded off tax payable [Vide section 288B]	Rs. 4,90,180

ASSESSMENT YEAR 2008-09:

EXAMPLE: (3) The total income of a domestic company for the financial year ending on 31-3-2008 (assessment year 2008-09) 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 12-12-2007].. .. .	Rs. 11,51,600
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) × 551 ⁶ (Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 125 ⁶ (Cost Inflation Index of the financial year of acquisition i.e., 1984-85)	Rs. 8,81,600
	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, long-term capital gains [Refer (C)] and also short-term capital gains u/s. 111A i.e., 10% of Rs. 17,40,000.. .. .	Rs. 1,74,000
50% of qualifying amount 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 @ 30% on Rs. 16,53,000 [Total (taxable) income exclusive of long-term capital gains. Refer (D)]	Rs. 4,95,900
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 Rs. 19,23,000 [Refer (F)]	Rs. 5,49,900
Add: Additional surcharge† @ 2% plus 1% of I.T. Rs. 5,49,900	Rs. 16,497
Tax on total (taxable) income Rs. 19,23,000 [Refer (F)]	Rs. 5,66,397
Rounded off tax payable [Vide section 288B]	Rs. 5,66,400

6. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

† Surcharge on income-tax is payable where the total (taxable) income exceeds Rs. 1,00,00,000 (one crore).

WEALTH-TAX EXAMPLE FOR COMPANY**THE ABRIDGED BALANCE SHEET OF A & CO., LTD. AS AT 31-3-2008:****Liabilities & capital****Assets & properties:**

Assets					Properties					Book value			Value as per Schedule III		
Rs.										Rs.			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									
Sundry creditors for goods & expenses	..				2,75,000	Jan. 2006)††	..	..	..	1,90,000				†4,95,000	
						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				*	
															</

*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 264.

††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 as a debt 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 347].

7. Where the total (taxable) income of the company consists of taxable long-term capital gains and short-term capital gains referred to in section 111A (Refer item 7 on page 161), the income-tax/advance tax on the taxable income, as reduced by long-term capital gains/said short-term capital gains, is to be computed with reference to the table given on page 257 for assessment year 2008-09/257 for assessment year 2009-10. Income-tax/advance tax on long-term capital gains/said short-term capital gains is to be calculated @ the prescribed flat rate, in the case of domestic company/foreign company [vide section 112(1)/111A(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/said short-term capital gains) and income-tax/advance tax on long-term capital gains/said short-term capital gains.

For assessment years 2008-09 & 2009-10, if the total income/current income exceeds Rs. 1,00,00,000, aggregate of income-tax/advance tax payable computed above is to be increased by a surcharge on income-tax/advance tax: (1) @ 10%, in the case of a "Domestic company"; and (2) @ 2.5%, in the case of a "Foreign company". The aggregate of income-tax/advance tax and S.C. thereon, if any, is further to be increased by an addl. S.C. @ 2% plus @ 1% of I.T. & S.C., if any.

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 income tax—

- @ 30%, if such royalties/fees are received in pursuance of an agreement made on or before 31-5-1997;
- @ 20%, if such royalties/fees are received in pursuance of an agreement made after 31-5-1997 but before 1-6-2005; &
- @ 10%, if such royalties/fees are received in pursuance of an agreement made on or after 1-6-2005.

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.

CHARGE OF WEALTH-TAX

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

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 2005-06 to 2008-09

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.

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.

“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].

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 2008-09 commenced on 1st April, 2008 and will end on 31st March, 2009.

“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.

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.

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. 48-50 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 51) [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 house¹; commercial property; and/or farm house situated within 25 kilometres from the local limits of any municipality² 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) Jewellery³, 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 municipality⁴ or a cantonment board which has a population of not less than 10,000; or within 8 kilometres from the local limits of such municipality⁴ or a cantonment board, as the Central Government may notify⁵.

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 276].

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].

Net wealth means the aggregate value of all the chargeable assets [specified in section 2(ea), refer item (7) on page 264], 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 liability⁶ on the aforesaid assets will not be deductible as a debt for arriving at the net wealth u/s. 2(m).

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.

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].

(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 264.

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 receivable⁸ 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 1-4-2007 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 @ 6% p.a. i.e., Rs. 7,200 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 @ 6% p.a. on Rs. 1,20,000	Rs.	7,200
	Rs.	10,800
	Rs.	22,800
Annual rent	Rs.	58,800

(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
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 265] 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 265], 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 265].

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:

(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.

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 along with 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 4-11-1983 to 31-3-2008, refer page 278.

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 wealth¹⁰. 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/Administrator of specified undertaking/specified company, 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 264] 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 page 224), 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 59).

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) on facing page.

- (11) *Section 4(1)(a) not applicable to assets transferred by an individual before 1-4-1956:* 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) 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:* 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) 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.
- 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 264], 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) Heirloom 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 moneys¹¹ 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 before 1-4-1962), 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 264. Provisions contained in the Wealth-tax Act will apply to companies. For *Example*, refer page 260.

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)^{11a} for various categories of assessee, are as under:

In relation to assessment year 2005-06 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 ^{12/11a}
(b) in the case of a person other than a company, referred to in the 1st proviso to section 139(1) [Refer page 176]	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 2008-09 is not filed by 31-7-2008, by an assessee falling under category (c) above, Assessing Officer may issue notice u/s. 16(4)(i) to the assessee to furnish the said return, on or after 1-8-2008. 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% from 8-9-2003 & onwards [$1\frac{1}{4}\%$, 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, 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 u/s. 17B, if any, payable for delayed filing of return of net wealth, 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. 179-180.

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 179].

11a. For the notes on amendment made in section 139(1) of the Income-tax Act by the Finance Act, 2008, refer para 7.1 on page 41.

12. For extended 'due date' in relation to assessment years 2005-06 to 2007-08, refer footnote No. 34 on page 189.

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)

Section 17A prescribes the time limits for completion of assessments or reassessments as under:

<i>Type of assessment</i>	<i>Time limit for completion of assessment or re-assessment</i>
(1) Regular assessment made u/s. 16,—	
(a) for assessment years 1989-90 to 2003-04	Two years from end of the relevant assessment year.
(b) for assessment year 2004-05 and onwards	Twenty-one months 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 but before 1-4-2005	One year from the end of the financial year in which such notice was served.
(b) where the notice is served u/s. 17(1) on or after 1-4-2005	Nine months from the end of the financial year in which such notice was served.
(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 is received by the Chief Commissioner or Commissioner/is passed by the Commissioner,—	
(a) on or after 1-4-2000 but before 1-4-2005	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) on or after 1-4-2005	Nine months 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 order u/s. 25 is passed by the Commissioner.

(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:

<i>Nature of default</i>	<i>Penalty imposable</i>
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% from 8-9-2003 & onwards [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.

WEALTH-TAX
FOR ASSESSMENT YEAR 2008-09

For

INDIVIDUALS, HINDU UNDIVIDED FAMILIES & COMPANIES

Valuation date: 31st March, 2008.

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 347].

WEALTH-TAX EXAMPLE

ASSESSMENT YEAR

2008-09:

VALUATION DATE: 31ST MARCH, 2008:

An individual who is a resident and citizen of India, or a Hindu undivided family resident in India, has the following assets:

<i>Nature of assets</i>		<i>Book value/Cost Rupees</i>	<i>Whether an asset liable to wealth-tax u/s. 2(ea)</i>	<i>Value as per Schedule III Rupees</i>
1.	Proprietary 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.	8% Relief Bonds	1,50,000	No	†
12.	Units of Unit Trust of India/Administrator of specified undertaking/ specified company	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 88/80C 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 purchased in January, 2007 and held for industrial purposes from the date of its acquisition.. ..	10,00,000	No*	†
18.	Plot of urban land purchased in January, 2003 and 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) and hence not liable to wealth-tax.

‡ 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, 2003 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		<u>1,09,00,000</u>		
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
				<u>Rs. 22,70,000</u>
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			<u>Rs. 21,70,000</u>
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 2008-09 on net wealth Rs. 21,70,000 [Refer page 275]				<u>Rs. 6,700</u>

- 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 264.
- (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 31-3-2008, 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 347].

QUOTATIONS
GOLD & SILVER

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MARKET RATES OF GOLD AND SILVER FOR WEALTH-TAX PURPOSES†
FOR VALUATION DATE 31-3-2008

(Source: The Bombay Bullion Association Ltd./News Papers)

MARKET RATE
AS ON

		31-3-2008	1-4-1981 ‡	
Gold Standard 24 Carats	..	Rs. 12,125*	Rs. 1,670*	for 10 Grams
Silver 999 Touch	..	Rs. 23,625	Rs. 2,715	for 1 Kg.

‡ For the purposes of computing "Long-term capital gains" for assessment year 1993-94 and onwards.

***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 gold 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/Administrator of specified undertaking/ specified company, 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 264] 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 31-3-2008 is not given.

MARKET RATES OF GOLD & SILVER

(FROM 4-11-1983 TO 31-3-2008)

SOURCE: The Bombay Bullion Association Ltd.

	STANDARD GOLD 24 Carats	SILVER 9960 touch		STANDARD GOLD 24 Carats	SILVER 999 touch		STANDARD GOLD 24 Carats	SILVER 999 touch
Valuation Date	Rate for 10 grams Rs.	Rate for 1 kg. Rs.	Valuation Date	Rate for 10 grams Rs.	Rate for 1 kg. Rs.	Valuation Date	Rate for 10 grams Rs.	Rate for 1 kg. Rs.
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	31-3-05	\$6,180	\$10,675
31-3-86	2140	4015	31-3-94	4598	7142	31-3-06	††8,490	††17,405
2-11-86	2375	4397	31-3-95	4680	6335	31-3-07	††9,395	††19,520
31-12-86	2405	4271	31-3-96	5160	7346	31-3-08	†††12,125	†††23,625
31-3-87	2570	4794	31-3-97	4725	7345			

** 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.

§ Quotations are as reported in the Economic Times, Mumbai Edition, dt. 1-4-2005.

†† Quotations are as reported in the Economic Times, Mumbai Edition, dt. 1-4-2006.

†† Quotations are as reported in the Business Line, Mumbai Edition, dt. 1-4-2007.

††† Quotations are as reported in the Economic Times, Mumbai Edition, dt. 1-4-2008.

LIST OF ISSUE OF BONUS SHARES

FROM 1-4-2008 TO 31-3-2009*

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
Amara Raja Balt ..	1:2	15-10-2008	Gujarat NRE Coke ..	2:5	20-10-2008	Rajendra Elec. Inds. ..	1:1	16-03-2009
Aro Granite Indus. ..	1:2	30-09-2008	Hind Rectifiers ..	1:1	07-10-2008	Rajendra Mechanical ..	1:1	04-11-2008
Ashirwad Capital ..	3:5	16-05-2008	Housing Development ..	2:7	22-08-2008	Reliance Power ..	3:5	03-06-2008
BAMPSL Securities ..	2:5	11-11-2008	IL&FS Investment ..	1:2	29-079-2008	Sanraa Media ..	1:1	17-12-2008
Bank of Rajasthan ..	1:5	20-09-2008	JM Financial ..	3:2	15-09-2008	Sanwaria Agro Oil ..	1:1	30-09-2008
Biocon ..	1:1	12-09-2008	Jetking Infotrain ..	1:2	26-09-2008	Sesa Goa ..	1:1	18-08-2008
Bliss GVS Pharma ..	3:5	30-09-2008	Jolly Boards ..	4:1	01-10-2008	Shipping Corporation ..	1:2	31-10-2008
C G Impex ..	1:2	16-05-2008	Kashyap Technologic ..	1:6	14-08-2008	Simplex Trading ..	4:1	06-01-2009
Compucom Software ..	1:1	26-12-2008	Kamanwala Housing Const. ..	1:1	22-09-2008	South Indian Bank ..	1:4	17-10-2008
Container Corp. ..	1:1	17-04-2008	Kanani Industries ..	1:1	07-08-2008	Speciality Papers ..	1:1	16-04-2008
ELF Trading & Chem. ..	3:1	04-07-2008	Larsen & Toubro ..	1:1	03-10-2008	Sundaram Finance ..	1:1	25-08-2008
Exdon Trading ..	2:1	12-01-2009	M M Forgings ..	1:1	10-10-2008	Super Tannery ..	1:1	08-12-2008
Frontline Business ..	1:1	19-12-2008	Madras Cements ..	1:1	10-10-2008	Swasti Vinayaka Gems ..	1:3	15-05-2008
Gail (India) ..	1:2	07-10-2008	Megh Mayur Infra. ..	20:1	10-02-2009	Thakkers Developers ..	1:1	18-08-2008
Gee ..	1:5	09-01-2009	N M D C ..	2:1	22-05-2008	United Phosphorues ..	1:1	31-10-2008
Gloster Jute Mills ..	1:1	01-10-2008	Opto Circuits (I) ..	7:10	04-11-2008	Valecha Engineering ..	1:2	03-10-2008
Gujarat Apollo Ind. ..	1:2	22-12-2008	Pantaloon Retail ..			Veer Energy & Infra. ..	14:10	14-11-2008
Gujarat Mineral Deve. ..	1:1	17-10-2008	Class B share issued for Class A share ..	1:10	07-11-2008	Westlife Development ..	79:1	11-12-2008

* 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), from 1-4-2002 to 31-3-2003, refer page 272 of ITRR 2003-04 (65th Year of Publication), from 1-4-2003 to 31-3-2004, refer page 277 of ITRR 2004-05 (66th Year of Publication), from 1-4-2004 to 31-3-2005, refer page 278 of ITRR 2005-06 (67th Year of Publication), from 1-4-2005 to 31-3-2006, refer page 295 of ITRR 2006-07 (68th Year of Publication), from 1-4-2006 to 31-3-2007, refer page 286 of ITRR 2007-08 (69th Year of Publication) and from 1-4-2007 to 31-3-2008, refer page 279 of ITRR 2008-09 (70th Year of Publication).

[Continued from Cover page No. 2]

3. Insertion of new section: (a) 271(1B), w.e.f. 1-4-1989 [Refer para 9.1 on page 46]; (b) 273AA & 278AB, w.e.f. 1-4-2008 [Refer para 9.2 on page 46]; (c) 282A, w.e.f. 1-6-2008 [Refer para 9.3 on page 46]. Section 292C, amended w.e.f. 1-6-2002/1-10-1975 [Refer para 9.4 on page 46]. Provisions relating to charge of securities transaction tax, amended w.e.f. 1-6-2008 [Refer para 9.5 on page 46]. Provisions relating to levy of banking cash transaction tax, amended w.e.f. 1-4-2009 [Refer para 9.6 on page 46]. Chapter VII inserted in the Finance Act, 2008 to levy commodities transaction tax [Refer para 10.1 on page 46].

SALARIES TABLE
FOR EMPLOYEE†

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MONTHLY SALARY TABLE FOR AN EMPLOYEE OTHER THAN SPECIFIED EMPLOYEE†

Amount of tax to be deducted per month during the financial year 2008-09

Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
12320	Nil	Nil	Nil	Nil	13120	62	1.24	0.62	63.86	13920	142	2.84	1.42	146.26
12340	Nil	Nil	Nil	Nil	13140	64	1.28	0.64	65.92	13940	144	2.88	1.44	148.32
12360	Nil	Nil	Nil	Nil	13160	66	1.32	0.66	67.98	13960	146	2.92	1.46	150.38
12380	Nil	Nil	Nil	Nil	13180	68	1.36	0.68	70.04	13980	148	2.96	1.48	152.44
12400	Nil	Nil	Nil	Nil	13200	70	1.40	0.70	72.10	14000	150	3.00	1.50	154.50
12420	Nil	Nil	Nil	Nil	13220	72	1.44	0.72	74.16	14020	152	3.04	1.52	156.56
12440	Nil	Nil	Nil	Nil	13240	74	1.48	0.74	76.22	14040	154	3.08	1.54	158.62
12460	Nil	Nil	Nil	Nil	13260	76	1.52	0.76	78.28	14060	156	3.12	1.56	160.68
12480	Nil	Nil	Nil	Nil	13280	78	1.56	0.78	80.34	14080	158	3.16	1.58	162.74
12500	Nil	Nil	Nil	Nil	13300	80	1.60	0.80	82.40	14100	160	3.20	1.60	164.80
12520	2	0.04	0.02	2.06	13320	82	1.64	0.82	84.46	14120	162	3.24	1.62	166.86
12540	4	0.08	0.04	4.12	13340	84	1.68	0.84	86.52	14140	164	3.28	1.64	168.92
12560	6	0.12	0.06	6.18	13360	86	1.72	0.86	88.58	14160	166	3.32	1.66	170.98
12580	8	0.16	0.08	8.24	13380	88	1.76	0.88	90.64	14180	168	3.36	1.68	173.04
12600	10	0.20	0.10	10.30	13400	90	1.80	0.90	92.70	14200	170	3.40	1.70	175.10
12620	12	0.24	0.12	12.36	13420	92	1.84	0.92	94.76	14220	172	3.44	1.72	177.16
12640	14	0.28	0.14	14.42	13440	94	1.88	0.94	96.82	14240	174	3.48	1.74	179.22
12660	16	0.32	0.16	16.48	13460	96	1.92	0.96	98.88	14260	176	3.52	1.76	181.28
12680	18	0.36	0.18	18.54	13480	98	1.96	0.98	100.94	14280	178	3.56	1.78	183.34
12700	20	0.40	0.20	20.60	13500	100	2.00	1.00	103.00	14300	180	3.60	1.80	185.40

† This table is applicable to an employee other than employee specified below—

1. In the case of an employee, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax to be deducted in case of such an employee, refer table on page 282.
2. In the case of an employee, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax to be deducted in case of such an employee, refer table on page 283.

12720	22	0.44	0.22	22.66	13520	102	2.04	1.02	105.06	14320	182	3.64	1.82	187.46
12740	24	0.48	0.24	24.72	13540	104	2.08	1.04	107.12	14340	184	3.68	1.84	189.52
12760	26	0.52	0.26	26.78	13560	106	2.12	1.06	109.18	14360	186	3.72	1.86	191.58
12780	28	0.56	0.28	28.84	13580	108	2.16	1.08	111.24	14380	188	3.76	1.88	193.64
12800	30	0.60	0.30	30.90	13600	110	2.20	1.10	113.30	14400	190	3.80	1.90	195.70
12820	32	0.64	0.32	32.96	13620	112	2.24	1.12	115.36	14420	192	3.84	1.92	197.76
12840	34	0.68	0.34	35.02	13640	114	2.28	1.14	117.42	14440	194	3.88	1.94	199.82
12860	36	0.72	0.36	37.08	13660	116	2.32	1.16	119.48	14460	196	3.92	1.96	201.88
12880	38	0.76	0.38	39.14	13680	118	2.36	1.18	121.54	14480	198	3.96	1.98	203.94
12900	40	0.80	0.40	41.20	13700	120	2.40	1.20	123.60	14500	200	4.00	2.00	206.00
12920	42	0.84	0.42	43.26	13720	122	2.44	1.22	125.66	14520	202	4.04	2.02	208.06
12940	44	0.88	0.44	45.32	13740	124	2.48	1.24	127.72	14540	204	4.08	2.04	210.12
12960	46	0.92	0.46	47.38	13760	126	2.52	1.26	129.78	14560	206	4.12	2.06	212.18
12980	48	0.96	0.48	49.44	13780	128	2.56	1.28	131.84	14580	208	4.16	2.08	214.24
13000	50	1.00	0.50	51.50	13800	130	2.60	1.30	133.90	14600	210	4.20	2.10	216.30
13020	52	1.04	0.52	53.56	13820	132	2.64	1.32	135.96	14620	212	4.24	2.12	218.36
13040	54	1.08	0.54	55.62	13840	134	2.68	1.34	138.02	14640	214	4.28	2.14	220.42
13060	56	1.12	0.56	57.68	13860	136	2.72	1.36	140.08	14660	216	4.32	2.16	222.48
13080	58	1.16	0.58	59.74	13880	138	2.76	1.38	142.14	14680	218	4.36	2.18	224.54
13100	60	1.20	0.60	61.80	13900	140	2.80	1.40	144.20	14700	220	4.40	2.20	226.60

* 'Monthly taxable salary' is arrived at after taking into consideration the deductions permissible u/s. 16(iii) for profession tax paid/deducted and Chapter VI-A [viz. section 80C (in respect of LIP, PF, notified fixed deposit with a scheduled bank, etc.), 80CCC, 80CCD, 80D, 80DD, 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'.

Notes: (1) For perquisites, benefits and other allowances, please refer example on page 284.

(2) **Standard deduction u/s. 16(i) is not available** as the said section has been omitted in relation to assessment year 2006-07 and subsequent years [financial year ending on 31-3-2006 and subsequent years].

(3) **For deduction permissible u/s. 80C** [as against rebate of (deduction from) income-tax allowable u/s. 88], in respect of life insurance premia, contribution to Provident Fund, tuition fees for full-time education of children, notified fixed deposit with a scheduled bank, etc. etc., refer item (i) on page 210.

(4) Rebate of (deduction from) income-tax **u/s. 88, 88B, 88C, 88D is not available** as the said sections are omitted in relation to assessment year 2006-07 and subsequent years [financial year ending on 31-3-2006 and subsequent years].

For tax on estimated annual salary income, please refer pp. 298-299.

MONTHLY SALARY TABLE FOR AN EMPLOYEE OTHER THAN SPECIFIED EMPLOYEE†

Amount of tax to be deducted per month during the financial year 2008-09

Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary* Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
14720	222	4.44	2.22	228.66	15720	322	6.44	3.22	331.66	16720	422	8.44	4.22	434.66
14740	224	4.48	2.24	230.72	15740	324	6.48	3.24	333.72	16740	424	8.48	4.24	436.72
14760	226	4.52	2.26	232.78	15760	326	6.52	3.26	335.78	16760	426	8.52	4.26	438.78
14780	228	4.56	2.28	234.84	15780	328	6.56	3.28	337.84	16780	428	8.56	4.28	440.84
14800	230	4.60	2.30	236.90	15800	330	6.60	3.30	339.90	16800	430	8.60	4.30	442.90
14820	232	4.64	2.32	238.96	15820	332	6.64	3.32	341.96	16820	432	8.64	4.32	444.96
14840	234	4.68	2.34	241.02	15840	334	6.68	3.34	344.02	16840	434	8.68	4.34	447.02
14860	236	4.72	2.36	243.08	15860	336	6.72	3.36	346.08	16860	436	8.72	4.36	449.08
14880	238	4.76	2.38	245.14	15880	338	6.76	3.38	348.14	16880	438	8.76	4.38	451.14
14900	240	4.80	2.40	247.20	15900	340	6.80	3.40	350.20	16900	440	8.80	4.40	453.20
14920	242	4.84	2.42	249.26	15920	342	6.84	3.42	352.26	16920	442	8.84	4.42	455.26
14940	244	4.88	2.44	251.32	15940	344	6.88	3.44	354.32	16940	444	8.88	4.44	457.32
14960	246	4.92	2.46	253.38	15960	346	6.92	3.46	356.38	16960	446	8.92	4.46	459.38
14980	248	4.96	2.48	255.44	15980	348	6.96	3.48	358.44	16980	448	8.96	4.48	461.44
15000	250	5.00	2.50	257.50	16000	350	7.00	3.50	360.50	17000	450	9.00	4.50	463.50
15020	252	5.04	2.52	259.56	16020	352	7.04	3.52	362.56	17020	452	9.04	4.52	465.56
15040	254	5.08	2.54	261.62	16040	354	7.08	3.54	364.62	17040	454	9.08	4.54	467.62
15060	256	5.12	2.56	263.68	16060	356	7.12	3.56	366.68	17060	456	9.12	4.56	469.68
15080	258	5.16	2.58	265.74	16080	358	7.16	3.58	368.74	17080	458	9.16	4.58	471.74
15100	260	5.20	2.60	267.80	16100	360	7.20	3.60	370.80	17100	460	9.20	4.60	473.80
15120	262	5.24	2.62	269.86	16120	362	7.24	3.62	372.86	17120	462	9.24	4.62	475.86
15140	264	5.28	2.64	271.92	16140	364	7.28	3.64	374.92	17140	464	9.28	4.64	477.92
15160	266	5.32	2.66	273.98	16160	366	7.32	3.66	376.98	17160	466	9.32	4.66	479.98
15180	268	5.36	2.68	276.04	16180	368	7.36	3.68	379.04	17180	468	9.36	4.68	482.04
15200	270	5.40	2.70	278.10	16200	370	7.40	3.70	381.10	17200	470	9.40	4.70	484.10

† This table is applicable to an employee other than employee specified below—

1. In the case of an employee, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax to be deducted in case of such an employee, refer table on page 282.
2. In the case of an employee, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax to be deducted in case of such an employee, refer table on page 283.

15220	272	5.44	2.72	280.16	16220	372	7.44	3.72	383.16	17220	472	9.44	4.72	486.16
15240	274	5.48	2.74	282.22	16240	374	7.48	3.74	385.22	17240	474	9.48	4.74	488.22
15260	276	5.52	2.76	284.28	16260	376	7.52	3.76	387.28	17260	476	9.52	4.76	490.28
15280	278	5.56	2.78	286.34	16280	378	7.56	3.78	389.34	17280	478	9.56	4.78	492.34
15300	280	5.60	2.80	288.40	16300	380	7.60	3.80	391.40	17300	480	9.60	4.80	494.40
15320	282	5.64	2.82	290.46	16320	382	7.64	3.82	393.46	17320	482	9.64	4.82	496.46
15340	284	5.68	2.84	292.52	16340	384	7.68	3.84	395.52	17340	484	9.68	4.84	498.52
15360	286	5.72	2.86	294.58	16360	386	7.72	3.86	397.58	17360	486	9.72	4.86	500.58
15380	288	5.76	2.88	296.64	16380	388	7.76	3.88	399.64	17380	488	9.76	4.88	502.64
15400	290	5.80	2.90	298.70	16400	390	7.80	3.90	401.70	17400	490	9.80	4.90	504.70
15420	292	5.84	2.92	300.76	16420	392	7.84	3.92	403.76	17420	492	9.84	4.92	506.76
15440	294	5.88	2.94	302.82	16440	394	7.88	3.94	405.82	17440	494	9.88	4.94	508.82
15460	296	5.92	2.96	304.88	16460	396	7.92	3.96	407.88	17460	496	9.92	4.96	510.88
15480	298	5.96	2.98	306.94	16480	398	7.96	3.98	409.94	17480	498	9.96	4.98	512.94
15500	300	6.00	3.00	309.00	16500	400	8.00	4.00	412.00	17500	500	10.00	5.00	515.00
15520	302	6.04	3.02	311.06	16520	402	8.04	4.02	414.06	17520	502	10.04	5.02	517.06
15540	304	6.08	3.04	313.12	16540	404	8.08	4.04	416.12	17540	504	10.08	5.04	519.12
15560	306	6.12	3.06	315.18	16560	406	8.12	4.06	418.18	17560	506	10.12	5.06	521.18
15580	308	6.16	3.08	317.24	16580	408	8.16	4.08	420.24	17580	508	10.16	5.08	523.24
15600	310	6.20	3.10	319.30	16600	410	8.20	4.10	422.30	17600	510	10.20	5.10	525.30
15620	312	6.24	3.12	321.36	16620	412	8.24	4.12	424.36	17620	512	10.24	5.12	527.36
15640	314	6.28	3.14	323.42	16640	414	8.28	4.14	426.42	17640	514	10.28	5.14	529.42
15660	316	6.32	3.16	325.48	16660	416	8.32	4.16	428.48	17660	516	10.32	5.16	531.48
15680	318	6.36	3.18	327.54	16680	418	8.36	4.18	430.54	17680	518	10.36	5.18	533.54
15700	320	6.40	3.20	329.60	16700	420	8.40	4.20	432.60	17700	520	10.40	5.20	535.60

* Refer * marked note on facing page.

For notes, refer facing page.

For tax on estimated annual salary income, refer pp. 298-299.

SALARIES TABLE
FOR WOMAN EMPLOYEE†
MONTHLY SALARY TABLE FOR A WOMAN EMPLOYEE†
 Amount of tax to be deducted per month during the financial year 2008-09

Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
14920	Nil	Nil	Nil	Nil	15920	92	1.84	0.92	94.76	16920	192	3.84	1.92	197.76
14940	Nil	Nil	Nil	Nil	15940	94	1.88	0.94	96.82	16940	194	3.88	1.94	199.82
14960	Nil	Nil	Nil	Nil	15960	96	1.92	0.96	98.88	16960	196	3.92	1.96	201.88
14980	Nil	Nil	Nil	Nil	15980	98	1.96	0.98	100.94	16980	198	3.96	1.98	203.94
15000	Nil	Nil	Nil	Nil	16000	100	2.00	1.00	103.00	17000	200	4.00	2.00	206.00
15020	2	0.04	0.02	2.06	16020	102	2.04	1.02	105.06	17020	202	4.04	2.02	208.06
15040	4	0.08	0.04	4.12	16040	104	2.08	1.04	107.12	17040	204	4.08	2.04	210.12
15060	6	0.12	0.06	6.18	16060	106	2.12	1.06	109.18	17060	206	4.12	2.06	212.18
15080	8	0.16	0.08	8.24	16080	108	2.16	1.08	111.24	17080	208	4.16	2.08	214.24
15100	10	0.20	0.10	10.30	16100	110	2.20	1.10	113.30	17100	210	4.20	2.10	216.30
15120	12	0.24	0.12	12.36	16120	112	2.24	1.12	115.36	17120	212	4.24	2.12	218.36
15140	14	0.28	0.14	14.42	16140	114	2.28	1.14	117.42	17140	214	4.28	2.14	220.42
15160	16	0.32	0.16	16.48	16160	116	2.32	1.16	119.48	17160	216	4.32	2.16	222.48
15180	18	0.36	0.18	18.54	16180	118	2.36	1.18	121.54	17180	218	4.36	2.18	224.54
15200	20	0.40	0.20	20.60	16200	120	2.40	1.20	123.60	17200	220	4.40	2.20	226.60
15220	22	0.44	0.22	22.66	16220	122	2.44	1.22	125.66	17220	222	4.44	2.22	228.66
15240	24	0.48	0.24	24.72	16240	124	2.48	1.24	127.72	17240	224	4.48	2.24	230.72
15260	26	0.52	0.26	26.78	16260	126	2.52	1.26	129.78	17260	226	4.52	2.26	232.78
15280	28	0.56	0.28	28.84	16280	128	2.56	1.28	131.84	17280	228	4.56	2.28	234.84
15300	30	0.60	0.30	30.90	16300	130	2.60	1.30	133.90	17300	230	4.60	2.30	236.90
15320	32	0.64	0.32	32.96	16320	132	2.64	1.32	135.96	17320	232	4.64	2.32	238.96
15340	34	0.68	0.34	35.02	16340	134	2.68	1.34	138.02	17340	234	4.68	2.34	241.02
15360	36	0.72	0.36	37.08	16360	136	2.72	1.36	140.08	17360	236	4.72	2.36	243.08
15380	38	0.76	0.38	39.14	16380	138	2.76	1.38	142.14	17380	238	4.76	2.38	245.14
15400	40	0.80	0.40	41.20	16400	140	2.80	1.40	144.20	17400	240	4.80	2.40	247.20

† This table is applicable to a woman employee, being resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If the age of the said woman is 65 years or more at any time during the financial year ending on 31-3-2009, refer table on facing page.

15420	42	0.84	0.42	43.26	16420	142	2.84	1.42	146.26	17420	242	4.84	2.42	249.26
15440	44	0.88	0.44	45.32	16440	144	2.88	1.44	148.32	17440	244	4.88	2.44	251.32
15460	46	0.92	0.46	47.38	16460	146	2.92	1.46	150.38	17460	246	4.92	2.46	253.38
15480	48	0.96	0.48	49.44	16480	148	2.96	1.48	152.44	17480	248	4.96	2.48	255.44
15500	50	1.00	0.50	51.50	16500	150	3.00	1.50	154.50	17500	250	5.00	2.50	257.50
15520	52	1.04	0.52	53.56	16520	152	3.04	1.52	156.56	17520	252	5.04	2.52	259.56
15540	54	1.08	0.54	55.62	16540	154	3.08	1.54	158.62	17540	254	5.08	2.54	261.62
15560	56	1.12	0.56	57.68	16560	156	3.12	1.56	160.68	17560	256	5.12	2.56	263.68
15580	58	1.16	0.58	59.74	16580	158	3.16	1.58	162.74	17580	258	5.16	2.58	265.74
15600	60	1.20	0.60	61.80	16600	160	3.20	1.60	164.80	17600	260	5.20	2.60	267.80
15620	62	1.24	0.62	63.86	16620	162	3.24	1.62	166.86	17620	262	5.24	2.62	269.86
15640	64	1.28	0.64	65.92	16640	164	3.28	1.64	168.92	17640	264	5.28	2.64	271.92
15660	66	1.32	0.66	67.98	16660	166	3.32	1.66	170.98	17660	266	5.32	2.66	273.98
15680	68	1.36	0.68	70.04	16680	168	3.36	1.68	173.04	17680	268	5.36	2.68	276.04
15700	70	1.40	0.70	72.10	16700	170	3.40	1.70	175.10	17700	270	5.40	2.70	278.10
15720	72	1.44	0.72	74.16	16720	172	3.44	1.72	177.16	17720	272	5.44	2.72	280.16
15740	74	1.48	0.74	76.22	16740	174	3.48	1.74	179.22	17740	274	5.48	2.74	282.22
15760	76	1.52	0.76	78.28	16760	176	3.52	1.76	181.28	17760	276	5.52	2.76	284.28
15780	78	1.56	0.78	80.34	16780	178	3.56	1.78	183.34	17780	278	5.56	2.78	286.34
15800	80	1.60	0.80	82.40	16800	180	3.60	1.80	185.40	17800	280	5.60	2.80	288.40
15820	82	1.64	0.82	84.46	16820	182	3.64	1.82	187.46	17820	282	5.64	2.82	290.46
15840	84	1.68	0.84	86.52	16840	184	3.68	1.84	189.52	17840	284	5.68	2.84	292.52
15860	86	1.72	0.86	88.58	16860	186	3.72	1.86	191.58	17860	286	5.72	2.86	294.58
15880	88	1.76	0.88	90.64	16880	188	3.76	1.88	193.64	17880	288	5.76	2.88	296.64
15900	90	1.80	0.90	92.70	16900	190	3.80	1.90	195.70	17900	290	5.80	2.90	298.70

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 306-307.

MONTHLY SALARY TABLE FOR A SENIOR CITIZEN EMPLOYEE†
Amount of tax to be deducted per month during the financial year 2008-09

Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.	Taxable Salary * Rs.	I.T. Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
18740	Nil	Nil	Nil	Nil	19720	97	1.94	0.97	99.91	20720	197	3.94	1.97	202.91
18750	Nil	Nil	Nil	Nil	19740	99	1.98	0.99	101.97	20740	199	3.98	1.99	204.97
18760	1	0.02	0.01	1.03	19760	101	2.02	1.01	104.03	20760	201	4.02	2.01	207.03
18780	3	0.06	0.03	3.09	19780	103	2.06	1.03	106.09	20780	203	4.06	2.03	209.09
18800	5	0.10	0.05	5.15	19800	105	2.10	1.05	108.15	20800	205	4.10	2.05	211.15
18820	7	0.14	0.07	7.21	19820	107	2.14	1.07	110.21	20820	207	4.14	2.07	213.21
18840	9	0.18	0.09	9.27	19840	109	2.18	1.09	112.27	20840	209	4.18	2.09	215.27
18860	11	0.22	0.11	11.33	19860	111	2.22	1.11	114.33	20860	211	4.22	2.11	217.33
18880	13	0.26	0.13	13.39	19880	113	2.26	1.13	116.39	20880	213	4.26	2.13	219.39
18900	15	0.30	0.15	15.45	19900	115	2.30	1.15	118.45	20900	215	4.30	2.15	221.45
18920	17	0.34	0.17	17.51	19920	117	2.34	1.17	120.51	20920	217	4.34	2.17	223.51
18940	19	0.38	0.19	19.57	19940	119	2.38	1.19	122.57	20940	219	4.38	2.19	225.57
18960	21	0.42	0.21	21.63	19960	121	2.42	1.21	124.63	20960	221	4.42	2.21	227.63
18980	23	0.46	0.23	23.69	19980	123	2.46	1.23	126.69	20980	223	4.46	2.23	229.69
19000	25	0.50	0.25	25.75	20000	125	2.50	1.25	128.75	21000	225	4.50	2.25	231.75
19020	27	0.54	0.27	27.81	20020	127	2.54	1.27	130.81	21020	227	4.54	2.27	233.81
19040	29	0.58	0.29	29.87	20040	129	2.58	1.29	132.87	21040	229	4.58	2.29	235.87
19060	31	0.62	0.31	31.93	20060	131	2.62	1.31	134.93	21060	231	4.62	2.31	237.93
19080	33	0.66	0.33	33.99	20080	133	2.66	1.33	136.99	21080	233	4.66	2.33	239.99
19100	35	0.70	0.35	36.05	20100	135	2.70	1.35	139.05	21100	235	4.70	2.35	242.05
19120	37	0.74	0.37	38.11	20120	137	2.74	1.37	141.11	21120	237	4.74	2.37	244.11
19140	39	0.78	0.39	40.17	20140	139	2.78	1.39	143.17	21140	239	4.78	2.39	246.17
19160	41	0.82	0.41	42.23	20160	141	2.82	1.41	145.23	21160	241	4.82	2.41	248.23
19180	43	0.86	0.43	44.29	20180	143	2.86	1.43	147.29	21180	243	4.86	2.43	250.29
19200	45	0.90	0.45	46.35	20200	145	2.90	1.45	149.35	21200	245	4.90	2.45	252.35
† This table is applicable to an employee, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009.														
19220	47	0.94	0.47	48.41	20220	147	2.94	1.47	151.41	21220	247	4.94	2.47	254.41
19240	49	0.98	0.49	50.47	20240	149	2.98	1.49	153.47	21240	249	4.98	2.49	256.47
19260	51	1.02	0.51	52.53	20260	151	3.02	1.51	155.53	21260	251	5.02	2.51	258.53
19280	53	1.06	0.53	54.59	20280	153	3.06	1.53	157.59	21280	253	5.06	2.53	260.59
19300	55	1.10	0.55	56.65	20300	155	3.10	1.55	159.65	21300	255	5.10	2.55	262.65
19320	57	1.14	0.57	58.71	20320	157	3.14	1.57	161.71	21320	257	5.14	2.57	264.71
19340	59	1.18	0.59	60.77	20340	159	3.18	1.59	163.77	21340	259	5.18	2.59	266.77
19360	61	1.22	0.61	62.83	20360	161	3.22	1.61	165.83	21360	261	5.22	2.61	268.83
19380	63	1.26	0.63	64.89	20380	163	3.26	1.63	167.89	21380	263	5.26	2.63	270.89
19400	65	1.30	0.65	66.95	20400	165	3.30	1.65	169.95	21400	265	5.30	2.65	272.95
19420	67	1.34	0.67	69.01	20420	167	3.34	1.67	172.01	21420	267	5.34	2.67	275.01
19440	69	1.38	0.69	71.07	20440	169	3.38	1.69	174.07	21440	269	5.38	2.69	277.07
19460	71	1.42	0.71	73.13	20460	171	3.42	1.71	176.13	21460	271	5.42	2.71	279.13
19480	73	1.46	0.73	75.19	20480	173	3.46	1.73	178.19	21480	273	5.46	2.73	281.19
19500	75	1.50	0.75	77.25	20500	175	3.50	1.75	180.25	21500	275	5.50	2.75	283.25
19520	77	1.54	0.77	79.31	20520	177	3.54	1.77	182.31	21520	277	5.54	2.77	285.31
19540	79	1.58	0.79	81.37	20540	179	3.58	1.79	184.37	21540	279	5.58	2.79	287.37
19560	81	1.62	0.81	83.43	20560	181	3.62	1.81	186.43	21560	281	5.62	2.81	289.43
19580	83	1.66	0.83	85.49	20580	183	3.66	1.83	188.49	21580	283	5.66	2.83	291.49
19600	85	1.70	0.85	87.55	20600	185	3.70	1.85	190.55	21600	285	5.70	2.85	293.55
19620	87	1.74	0.87	89.61	20620	187	3.74	1.87	192.61	21620	287	5.74	2.87	295.61
19640	89	1.78	0.89	91.67	20640	189	3.78	1.89	194.67	21640	289	5.78	2.89	297.67
19660	91	1.82	0.91	93.73	20660	191	3.82	1.91	196.73	21660	291	5.82	2.91	299.73
19680	93	1.86	0.93	95.79	20680	193	3.86	1.93	198.79	21680	293	5.86	2.93	301.79
19700	95	1.90	0.95	97.85	20700	195	3.90	1.95	200.85	21700	295	5.90	2.95	303.85

* Refer * marked note on page 280.

For notes, refer page 280.

For tax on estimated annual salary income, refer pp. 314-315.

SALARY INCOME
EXAMPLE

For computing taxable income under the head “Salaries” during the financial year ending on 31-3-2009
ASSESSMENT YEAR 2009-10

The estimated annual salary of an employee:

(1) Salary Rs. 24,000 × 12 (other sources of income of employee is Rs. 6,000)	Rs. 2,88,000
(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. 78-79)	Rs. 42,000
Aggregate of salary & perquisite	Rs. 3,30,000

Less: (1) **Standard deduction under section 16(i):**

Standard deduction u/s. 16(i) is not allowable as the said section is omitted from assessment year 2006-07 and onwards (i.e., for the financial year ending on 31-3-2006 and onwards) Rs. Nil

(2) **Deduction under section 16(iii) for profession tax:**

Profession tax deducted from salary, say @ Rs. 50 p.m. × 12 months	Rs. 600	Rs. 600
Estimated annual salary before deduction u/s. 80C*		Rs. 3,29,400

Less: Deduction u/s. 80C*:

(a) Life insurance premia paid/Tuition fees for full-time education of a child	Rs. 8,800
(b) Contributions to Provident fund	Rs. 20,600
Aggregate amount of savings u/s. 80C(2)	Rs. 29,400

As aggregate amount of savings does not exceed Rs. 1,00,000, deduction u/s. 80C(1) is Rs. 29,400

Estimated annual salary from which tax is to be deducted at source Rs. 3,00,000

Computation of tax to be deducted at source:

In the case of an employee being:

<i>Individual other than 2&3</i>	<i>Resident Woman below 65 yrs. of age</i>	<i>Resident individual of the age of 65 yrs. or more</i>
<i>1</i>	<i>2</i>	<i>3</i>

I.T. & addl. S.C. (i.e., Education Cess & Sec. Higher Edu. Cess) on I.T. on estimated annual salary Rs. 3,00,000 (Refer page 299/307/315) ..	Rs. 15,450	Rs. 12,360	Rs. 7,725

Deduction of I.T. & addl. S.C. every month

(Rs. 15,450 ÷ 12 / Rs. 12,360 ÷ 12 / Rs. 7,725 ÷ 12)	Rs. 1,288	Rs. 1,030	Rs. 644

In addition to salary, the employee has the following source of income:

1. Estimated annual salary before deduction u/s. 80C as computed above	Rs. 3,29,400	Rs. 3,29,400	Rs. 3,29,400
2. Interest on deposits with banks†	Rs. 6,000	Rs. 6,000	Rs. 6,000
Gross total income ..	Rs. 3,35,400	Rs. 3,35,400	Rs. 3,35,400

Less: Deduction under Chapter VI A :

Deduction u/s. 80C* as computed above	Rs. 29,400	Rs. 29,400	Rs. 29,400

Total (taxable) income ..	Rs. 3,06,000	Rs. 3,06,000	Rs. 3,06,000

I.T. & addl. S.C. on total (taxable) income Rs. 3,06,000 (Refer page 300/308/316)	Rs. 16,686	Rs. 13,596	Rs. 8,961

Less: I.T. & addl. S.C. deducted by employer on salary income Rs. 3,00,000	Rs. 15,450	Rs. 12,360	Rs. 7,725

I.T. & addl. S.C. payable on self-assessment, if no advance tax** has been paid	Rs. 1,236	Rs. 1,236	Rs. 1,236

Rounded off self-assessment payable [Vide section 288B] ..	Rs. 1,240	Rs. 1,240	Rs. 1,240

* Deduction u/s. 80C(1) is allowable from the gross total income in respect of the aggregate sums invested or deposited in specified savings referred to in section 80C(2) viz. life insurance premia, provident fund, tuition fees for full-time education of children, notified term deposit (i.e., fixed deposit) with a scheduled bank for not less than 5 years with a scheduled bank, etc. [Refer item (i) on page 210]. Aggregate amount of the said specified savings as does not exceed Rs. 1,00,000, qualifies for deduction u/s. 80C(1) at 100% of the aggregate amount of specified savings. It may be noted that the aggregate amount of deductions u/s. 80C, 80CCC & 80CCD, shall not, in any case exceed Rs. 1,00,000 [Refer item (iv) on page 213].

† Deduction u/s. 80L in respect of interest on deposits with banks, etc. is not allowable from assessment year 2006-07 and onwards as the said section is omitted from the said assessment year [Refer item (xxiii) on page 222].

** 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 91.

For the notes on provisions of section 192(1A), refer item 2 on pp. 85-86.

Note: From assessment year 2006-07 and onwards, rebate of (deduction from) income-tax is not allowable u/s. 88, 88B & 88C as the said sections have been omitted from the said assessment year [Refer item (4), (5), (6) & (7) on page 228].

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 2009-10):**

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 assessment 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 31-3-2009, advance tax is to be calculated at the rates specified in Part III of the First Schedule to the Finance Act, 2008 [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 Act, 2008].

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 2009-10, same rates i.e., those specified in item I of Paragraph A of Part III of the First Schedule to the Finance Act, 2008, 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 facing page], 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 year¹ 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).

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 31-3-1998 and subsequent years is indicated in the following table:

(A) IN THE CASE OF COMPANIES:**TABLE I**

<u>Due date of instalment²</u>	<u>Amount payable</u>
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**

<u>Due date of instalment²</u>	<u>Amount payable</u>
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 [1st 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. Shri Joshi (aged 50 years) estimates his income for the financial year ending 31-3-2009 (assessment year 2009-10) from various sources is as under:

1. Business income	Rs. 2,94,000
2. Property income (let-out)	Rs. 22,500
3. Interest income on deposit with company (tax @ source Rs. 875) gross	Rs. 8,500
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
Gross total income (carried over)	Rs. 3,25,000

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)].

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Gross total income (brought over)	Rs. 3,25,000
Less: Deductions under Chapter VI-A:	
Deduction u/s. 80C ⁴ :	
Contribution to public provident fund Rs. 50,000.	
Deduction u/s. 80C(1) @ 100% of Rs. 50,000 subject to limit of Rs. 1,00,000	Rs. 50,000
Income (called "current income") subject to advance tax	Rs. 2,75,000
Income tax & addl. S.C. (i.e., Education Cess & Sec. Higher Education Cess) on current income Rs. 2,75,000 (Refer page 299)	Rs. 12,875
Less: Tax deductible @ source on interest on deposit with company Rs. 875.. ..	Rs. 875
Advance tax payable during financial year 2008-09	Rs. 12,000

Shri Joshi has to pay the advance tax of Rs. 12,000 in three instalments as specified below:

<i>Due date of instalment⁵</i>	<i>Amount of instalment payable</i>
On or before 15-9-2008	Rs. 3,600 (being 30% of Rs. 12,000)
On or before 15-12-2008	Rs. 3,600 (being 60% of Rs. 12,000 i.e., Rs. 7,200 less Rs. 3,600 paid on 15-9-2008)
On or before 15-3-2009	Rs. 4,800 [being whole of Rs. 12,000 less Rs. 7,200 (Rs. 3,600 paid on 15-9-2008 plus Rs. 3,600 paid on 15-12-2008)].
Total ..	Rs. 12,000

2. In the above *Example 1*, after payment of last instalment of advance tax on or before 15-3-2009, Shri Joshi sells *land* on 17-3-2009. Long-term capital gains on the sale of *land* computed under section 48 [Refer item 4 on page 143] is Rs. 75,000. Revised income subject to advance tax (called "current income") for the purpose of payment of advance tax on long-term capital gains⁶ by 31-3-2009 will be as under:

Income subject to advance tax [as worked out in <i>Example 1</i> above]	Rs. 2,75,000
Add: Long-term capital gains (arose on 17-3-2009 ⁷ on sale of land)	Rs. 75,000
Revised income (called "current income") subject to advance tax for the purpose of payment of advance tax by 31-3-2009	Rs. 3,50,000

Advance tax payable on long-term capital gains Rs. 75,000:

Income-tax @ 20% u/s. 112(1)(a)(ii) :	
20% (flat rate of income-tax) × Rs. 75,000 (long-term capital gains).. .. .	Rs. 15,000
Add: Additional surcharge (i.e., Education Cess & S.H. Ed. Cess) @ 3% of Rs. 15,000	Rs. 450

Advance tax payable on long-term capital gains by 31-3-2009⁷ Rs. 15,450

- 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 deduction u/s. 80C, refer item (i) on pp. 210-212.

5. Refer footnote No. 2 on page 287.

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 17-3-2009 (i.e., after last instalment of advance tax due on or before 15-3-2009), the whole of the amount of advance tax payable Rs. 15,450 in respect of long-term capital gains is to be paid by 31-3-2009 [Vide 1st proviso to section 234C(1) read with proviso to section 211(1)].

If the long-term capital gains arose say on 17-12-2008 (i.e., after expiry of 2nd instalment of advance tax due on or before 15-12-2008), the whole of the amount of tax payable amounting to Rs. 15,450 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 15-3-2009. On or before 15-3-2009, Shri Joshi has to pay a sum of Rs. 20,250 [i.e., Rs. 4,800 (as worked out in *Example 1*) plus Rs. 15,450 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 17-9-2008 (i.e., after expiry of 1st instalment of advance tax due on or before 15-9-2008), the whole amount of tax payable amounting to Rs. 15,450 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 15-12-2008 and 15-3-2009. Shri Joshi has to pay: (1) on or before 15-12-2008, a sum of Rs. 12,870 [i.e., Rs. 3,600 (as worked out in *Example 1*) plus Rs. 9,270 (being 60% of Rs. 15,450 tax on the said capital gains as worked out above)], and (2) on or before 15-3-2009, a sum of Rs. 10,980 [i.e., Rs. 4,800 (as worked out in *Example 1*) plus Rs. 6,180 (being Rs. 15,450 tax on the said capital gains as worked out above less Rs. 9,270 paid on or before 15-12-2008)].

(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 234B & 234C for defaults in the payment of advance tax or deferrment of advance tax in relation to the assessment year 2002-03 and any subsequent assessment years is as stated hereafter.

*(i) Interest chargeable for defaults in payment of advance tax:***[Section 234B⁸]**

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 mandatory⁹) from 8-9-2003 and onwards at the rate of 1%¹⁰ 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,—

(1) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(2) any relief of tax allowed u/s. 90 on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards);

(3) any relief of tax allowed u/s. 90A on account of tax paid in a specified territory outside India referred to in that section (applicable from assessment year 2007-08 & onwards);

(4) any deduction, from Indian income-tax payable, allowed u/s. 91, on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards); and

(5) any tax credit allowed to be set off in accordance with the provisions of section 115JAA (applicable from assessment year 2007-08 onwards) [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, under 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 mandatory⁹ and there is no provision in the Act for reduction or waiver of this interest.

8. Refer footnote No. 2 on page 287.

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 pp. 190-191.

10. The rate of interest for every month or part of a month: (a) upto 31-5-1999, is at the rate of 2%; (b) from 1-6-1999 to 31-5-2001, is at the rate of 1½%; & (c) from 1-6-2001 to 7-9-2003, is at the rate of 1¼%.

Examples:

- (1) Shri Joshi, who is aged 45 years, files the return of income for the assessment year 2008-09 on 30-10-2008 (due date for filing return is 31-10-2008) declaring income of Rs. 2,15,000. Tax deducted at source is Rs. 910 and advance tax paid is Rs. 14,000 [on or before 15-9-2007, Rs. 5,100; on or before 15-12-2007, Rs. 5,100; and on or before 15-3-2008, 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 and additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) on Rs. 2,15,000 being total (taxable) income declared in return] (Refer page 233)	Rs.	17,510
<i>Less:</i> Tax deducted at source	Rs.	910
Assessed tax	Rs.	16,600
<i>Less:</i> 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 1-4-2008 to 29-10-2008 [7 months (6 months & 29 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. 17,510 less Rs. 14,910 (Rs. 910 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 30-10-2008	Rs.	2,808
Rounded off self-assessment payable [Vide section 288B]	Rs.	2,810

Note: The return shall be accompanied by proof of payment of self-assessment tax and interest.

- (2) Shri Mehra, who is aged 50 years, his assessed income for the assessment year 2008-09 on regular assessment completed say on 5-1-2009 is Rs. 2,19,000. Tax deducted at source is Rs. 1,234 and advance tax paid on or before specified due dates is Rs. 12,000. On the basis of returned income of Rs. 1,94,240 filed by due date, neither self-assessment tax nor interest u/s. 234A or 234B or 234C was payable.

Income-tax and additional surcharge (i.e., Education Cess & Sec. High. Edu. Cess) on Rs. 2,19,000 assessed income (Refer page 233)	Rs.	18,334
<i>Less:</i> Tax deducted at source	Rs.	1,234
Assessed tax	Rs.	17,100
<i>Less:</i> Advance tax paid	Rs.	12,000
Short-fall in payment of advance tax	Rs.	5,100
90% of the assessed tax Rs. 17,100	Rs.	15,390

As the advance tax paid (Rs. 12,000) is less than 90% of the assessed tax (i.e., Rs. 15,390), Shri Mehra will be liable to pay interest u/s. 234B from 1-4-2008 to the date of regular assessment i.e., 5-1-2009 on the short-fall of Rs. 5,100 as under:

(i) Interest from 1-4-2008 to 31-12-2008 (9 completed months) @ 1% per month on Rs. 5,100 short-fall i.e., 9 months × interest @ 1% p.m. × Rs. 5,100 (short-fall)	Rs.	459
(ii) Interest from 1-1-2009 to 5-1-2009 (5 days i.e., part of a month) @ 1% per month on Rs. 5,100 short-fall i.e., 1 month × interest @ 1% p.m. × Rs. 5,100 (short-fall)	Rs.	51
Interest payable u/s. 234B by Shri Mehra on short-fall in payment of advance tax	Rs.	510

(ii) Interest payable for deferment of advance tax:
[Section 234C]

ASSESSMENT YEAR 2002-03 AND ONWARDS:

(A) In the case of assessee (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 September¹¹ 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 December¹¹ 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 March¹¹ 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 mandatory¹²) at the rate of 1%, from 8-9-2003 and onwards, [$1\frac{1}{4}\%$, 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)];

(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 mandatory¹²) 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: (a) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income; (b) any relief of tax allowed u/s. 90 on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards); (c) any relief of tax allowed u/s. 90A on account of tax paid in a specified territory outside India referred to in that section (applicable from assessment year 2007-08 & onwards); (d) any deduction, from Indian income-tax payable, allowed u/s. 91, on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards); and (e) any tax credit allowed to be set off in accordance with the provisions of section 115JAA (applicable from assessment year 2007-08 & onwards) [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 2008-09 is Rs. 60,000. Advance tax paid by him is Rs. 56,000 (Rs. 10,000 on 15-9-2007, Rs. 16,000 on 15-12-2007 and Rs. 30,000 on 15-3-2008).

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 15-9-2007	Rs. 18,000 ¹³	Rs. 10,000	Rs. 8,000	1% p.m. on Rs. 8,000 × 3 months (i.e., from 15-9-2007 to 15-12-2007)	Rs. 240
On or before 15-12-2007	Rs. 26,000 ¹⁴	Rs. 16,000	Rs. 10,000	1% p.m. on Rs. 10,000 × 3 months (i.e., from 15-12-2007 to 15-3-2008)	Rs. 300
On or before 15-3-2008	Rs. 34,000 ¹⁵	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 15-3-2008, say on 31-3-2008, then, the interest payable u/s. 234C(1)(b)(ii) in respect of instalment due on or before 15-3-2008 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 15-3-2008)].

11. Refer footnote No. 2 on page 287.

12. Refer footnote No. 9 on page 289.

13. Being 30% of Rs. 60,000 “tax due on returned income”.

14. Being 60% of Rs. 60,000 “tax due on returned income” is Rs. 36,000 less Rs. 10,000 paid on 15-9-2007, as first instalment.

15. Being 100% of Rs. 60,000 “tax due on returned income” i.e., Rs. 60,000 less Rs. 26,000 paid on or before 15-12-2007 (i.e., Rs. 10,000 paid on 15-9-2007 plus Rs. 16,000 paid on 15-12-2007) = 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 June¹⁶ 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 September¹⁶ 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 December¹⁶ 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 March¹⁶ 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 mandatory¹⁷) at the rate of 1%, from 8-9-2003 and onwards, [$1\frac{1}{4}\%$, 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)];

(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 mandatory¹⁷) 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: (a) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income; (b) any relief of tax allowed u/s. 90 on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards); (c) any relief of tax allowed u/s. 90A on account of tax paid in a specified territory outside India referred to in that section (applicable from assessment year 2007-08 & onwards); (d) any deduction, from Indian income-tax payable, allowed u/s. 91, on account of tax paid in a country outside India (applicable from assessment year 2007-08 & onwards); and (e) any tax credit allowed to be set off in accordance with the provisions of section 115JAA (applicable from assessment year 2007-08 & onwards) [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. from 8-9-2003 and onwards, [@ 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 192.

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 191.

16. Refer footnote No. 2 on page 287.

17. 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 2008-09 & 2009-10

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 tax¹] 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: (i) on pp. 230-251 for the assessment year 2008-09; & (ii) on pp. 298-321 for the assessment year 2009-10.

(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 31-3-2009, please refer tables ‘A’ to ‘O’ on pp. 298-321.

ASSESSMENT YEARS 2008-09 & 2009-10:

- (1) The gross total income of Mr. A, resident in India below the age of 65 years/HUF, for assessment year 2008-09/2009-10 is Rs. 1,20,000 which includes interest from bank amounting to Rs. 2,500. Life insurance premia paid is Rs. 10,500.

Gross total income	..	..	..	..	..	..	..	..	..	..	Rs. 1,20,000
<i>Less:</i> Deduction under Chapter VI-A:											
Life insurance premia paid Rs. 10,500: Deduction u/s. 80C @ 100% of Rs. 10,500	..	..	..	..	..	..	..	..	..	..	Rs. 10,500
Taxable income/current income										..	Rs. 1,09,500
I.T. on taxable income Rs. 1,09,500 for assessment year 2008-09/2009-10 (Refer page 230/298)										..	Rs. Nil

Notes: (1) As income-tax payable is Rs. Nil, additional surcharge @ 2% plus 1% of I.T. is also Rs. Nil.

(2) As section 80L is omitted w.e.f. 1-4-2006, interest from bank amounting to Rs. 2,500 is not deductible from gross total income in relation to assessment year 2006-07 and subsequent years.

ASSESSMENT YEAR 2008-09:

- (2) The gross total income of Mr. A resident in India, who is aged 45 years/HUF² for assessment year 2008-09 is Rs. 1,30,000 which includes interest from banks on fixed deposits amounting to Rs. 14,000. Life insurance premia paid is Rs. 10,000.

Gross total income	..	..	..	..	..	..	..	..	..	..	Rs. 1,30,000
<i>Less:</i> Deduction under Chapter VI-A:											
Life insurance premia paid Rs. 10,000: Deduction u/s. 80C @ 100% of Rs. 10,000	..	..	..	..	..	..	..	..	..	..	Rs. 10,000
Taxable income										..	Rs. 1,20,000
I.T. & Addl. S.C. (i.e., Education Cess & Sec. High. Edu. Cess) on taxable income Rs. 1,20,000 for assessment year 2008-09 (Refer page 231)										..	Rs. 1,030

Note: As section 80L is omitted w.e.f. 1-4-2006, interest from banks on fixed deposits amounting to Rs. 14,000 is not deductible from gross total income in relation to assessment year 2006-07 and subsequent years.

- (3) The gross total income of Mr. A, who is resident in India, below the age of 65 years, for assessment year 2008-09 consists of:

(a) Business income	..	..	..	..	..	..	..	..	..	..	Rs. 1,40,000
(b) Long-term capital gains in respect of <i>land</i> arose on 8-12-2007:											
Sale proceeds [received on 8-12-2007]	..	..	..	..	..	..	..	..	..	Rs. 69,100	
<i>Less:</i> 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) × 551 ³ (Cost Inflation Index of the financial year of sale i.e., 2007-08) ÷ 100 ³ (Cost Inflation Index of the financial year of acquisition i.e., 1981-82) = Rs. 55,100	..	..	..	..	..	..	..	..	..	Rs. 55,100	Rs. 14,000
Carried forward										..	Rs. 1,54,000

1. The maximum amount not chargeable to tax for the assessment year 2008-09/2009-10 is: (i) Rs. 1,10,000/Rs. 1,50,000; (ii) Rs. 1,45,000/Rs. 1,80,000, in the case of an individual, being a woman resident in India, and below the age of 65 years at any time during the previous year; & (iii) Rs. 1,95,000/Rs. 2,25,000, in the case of an individual, being resident in India, who is of the age of 65 years or more at any time during the previous year.

2. Income under the head “Long-term capital gains” and “Short-term capital gains referred to in section 111A (Refer item 7 on page 161)” during the year is Rs. Nil.

3. For Notification on Cost Inflation Index, refer pp. 143-144/cover page 3.

[illegible]

Note: As section 80L is omitted w.e.f. 1-4-2006, interest from banks amounting to Rs. 2,000 is not deductible from gross total income in relation to assessment year 2006-07 and subsequent years.

ASSESSMENT YEAR 2008-09:
Agricultural & non-agricultural income

(4) Gross non-agricultural income & gross agricultural income of Mr. A, who is resident in India, below the age of 65 years, is as under:

as under:									
(a)	Gross non-agricultural income [long-term capital gain/short-term capital gain referred to in section 111A (refer item 7 on page 161), Rs. Nil]	Rs.	1,50,000						
	Less: Deduction u/s. 80C @ 100% for life insurance premia paid Rs. 5,000	Rs.	5,000						
	Non-agricultural income	Rs.	1,45,000						Rs. 1,45,000
(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. 1,60,000
Income-tax on aggregated income Rs. 1,60,000 as if it is the total income (Refer page 232)									
	Net agricultural income	Rs.	15,000						Rs. 6,000
	Add: Rs. 1,10,000 as per section 2(2) of the Finance Act, 2008	Rs.	1,10,000						
		Rs.	1,25,000						
	Less: Income-tax on Rs. 1,25,000 (Refer page 231)	Rs.	1,500						
	Income-tax on non-agricultural income Rs. 1,45,000 for assessment year 2008-09	Rs.	4,500						
	Add: Additional surcharge [i.e., Education Cess & Sec. High. Edu. Cess] @ 2% plus 1% of I.T. Rs. 4,500	Rs.	135						
	Tax payable on non-agricultural income Rs. 1,45,000 for assessment year 2008-09	Rs.	4,635						
	Rounded off tax payable [Vide section 288B]	Rs.	4,640						

Note: In cases where the non-agricultural taxable income *does not exceed the maximum amount not chargeable to tax, as stated in footnote no. 1 on page 293*, in the case of, an individual/a woman being resident in India, and below the age of 65 years at any time during the previous year/an individual, being resident in India, who is of the age of 65 years or more at any time during the previous year, for the assessment year 2008-09/2009-10; and net agricultural income of any amount, there will be no liability to pay tax/advance tax for the assessment year 2008-09/2009-10. Further, in cases where the net agricultural income does not exceed Rs. 5,000 for the assessment year 2008-09/2009-10 it shall be ignored for the purpose of computing tax/advance tax.

4. 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 143 & item 8 on page 161].

ASSESSMENT YEAR 2008-09:

- (5) The taxable income (other than winnings from lotteries, long-term capital gains & short-term capital gains referred to in section 111A) of Mr. A, who is resident in India and below the age of 65 years, is Rs. 1,80,000 and winnings from lotteries is Rs. 40,000.

Taxable income (other than winnings from lotteries, long-term capital gains & short-term capital gains referred to in section 111A)	Rs. 1,80,000
Add: Winnings from lotteries	Rs. 40,000
Total (taxable) income	<u>Rs. 2,20,000</u>

Computation of tax on:

- (a) Winnings from lotteries:

@ flat rate of 30%³ on Rs. 40,000 Rs. 12,000

- (b) Reduced total (taxable) income Rs. 1,80,000 (Rs. 2,20,000 less Rs. 40,000):

Income-tax on Rs. 1,80,000 (Refer page 233) Rs. 10,000

Aggregate income-tax for assessment year 2008-09 Rs. 22,000

Add: Additional surcharge [i.e., Education Cess & Sec. High. Edu. Cess] @ 2% plus 1% of I.T. Rs. 22,000 Rs. 660

Aggregate of tax payable for assessment year 2008-09 Rs. 22,660

- (6) The gross total income of Mr. A, who is resident in India and has attained the age of 65 years on 31-3-2008, for assessment year 2008-09, consists of:

- (a) Business income Rs. 3,10,000

- (b) Short-term capital gains in respect of equity shares, on which securities transaction tax has been paid, arose on 4-1-2008 [chargeable u/s. 111A(1)]:

Sale proceeds [received on 4-1-2008] Rs. 64,000

Less: Cost of acquisition [acquired on 10-1-2007] Rs. 34,000 Rs. 30,000

Gross total income inclusive of short-term capital gains Rs. 3,40,000

Less: Short-term capital gains chargeable u/s. 111A(1).. .. . Rs. 30,000

Gross total income as reduced by short-term capital gains chargeable u/s. 111A(1) Rs. 3,10,000

Less: Deductions under Chapter VI-A:

1. Contribution to Public Provident Fund Rs. 50,000:

Deduction u/s. 80C @ 100% of Rs. 50,000 Rs. 50,000

2. Donations to approved charities Rs. 10,000:

Deduction u/s. 80G @ 50% of Rs. 10,000 Rs. 5,000 Rs. 55,000

Taxable income as reduced by short-term capital gains chargeable u/s. 111A(1) (A) Rs. 2,55,000

Add: Short-term capital gains chargeable u/s. 111A(1) (B) Rs. 30,000

Taxable income inclusive of short-term capital gains chargeable u/s. 111A(1) (C) Rs. 2,85,000

Income-tax on Rs. 2,55,000 taxable income as reduced by short-term capital gains chargeable u/s. 111A(1) as per (A) [Refer page 248] Rs. 12,500

Add: Income-tax @ 10% on short-term capital gains Rs. 30,000 u/s. 111A(1) [Refer (B)] Rs. 3,000

Income-tax on taxable income inclusive of short-term capital gains Rs. 2,85,000 [Refer (C)] Rs. 15,500

Add: Additional surcharge [i.e., Education Cess & Sec. High. Edu. Cess] @ 2% plus 1% of I.T. Rs. 15,500 Rs. 465

Tax payable on taxable income Rs. 2,85,000 [Refer (C)] for assessment year 2008-09 Rs. 15,965

Rounded off tax [Vide section 288B] Rs. 15,970

5. 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. 10,00,000 [vide section 2(3) of the Finance Act, 2008].

ASSESSMENT YEAR 2008-09:

- (7) Mr. A, who is resident in India and below the age of 65 years on 31-3-2008, his taxable income being annual salary, dearness allowance and taxable perquisites from the employer for the financial year ending on 31-3-2008 is Rs. 2,20,600. He has paid tuition fees for full-time education of his two children in school Rs. 17,000 [Rs. 10,000 + Rs. 7,000] and his contribution to provident fund is Rs. 15,000.

Annual salary	Rs. 2,20,600	
Less: (a) Standard deduction under section 16(i): As section 16(i) is omitted w.e.f. 1-4-2006, standard deduction is not available from assessment year 2006-07 and onwards	Rs. Nil	
(b) Deduction under section 16(iii) for profession tax: Profession tax deducted from salary, say @ Rs. 300 p.m. × 12 months	Rs. 3,600	Rs. 3,600
Gross total income ..		Rs. 2,17,000
Less: Deduction under Chapter VI-A: Tuition fees for 2 children & contri. to provident fund Rs. 32,000 [Rs. 17,000 + Rs. 15,000]: Deduction u/s. 80C @ 100% of Rs. 32,000		Rs. 32,000
Taxable income ..		Rs. 1,85,000
Income-tax on taxable income Rs. 1,85,000 for assessment year 2008-09 [Refer page 233]	Rs. 11,000	
Add: Additional surcharge [i.e., Education Cess & Sec. High. Edu. Cess] @ 2% plus 1% of I.T. Rs. 11,000	Rs. 330	
Tax payable on taxable income Rs. 1,85,000 for assessment year 2008-09	Rs. 11,330	

Assuming that the tax deducted at source is Rs. 11,130, the employee is required to pay self-assessment tax in an amount of Rs. 200 before the submission of return of income for the assessment year 2008-09.

		ASSESSMENT YEAR	
		2008-09	2009-10
(8) The gross total income of Mr. A (aged 45 years) consists of the following sources of income:			
1. Business income	Rs. 1,65,000	Rs. 2,34,000	
2. Property income	Rs. 19,000	Rs. 23,000	
3. Capital gains:			
‡ (a) Short-term in respect of land [arose on 12th March, 2008/2009]	Rs. 10,000	Rs. 10,000	
‡ (b) Long-term in respect of land [arose on 12th March, 2008/2009] [computed in the manner explained in Example No. (3) on page 293], say	Rs. 60,000	Rs. 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 bank deposits	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. 2,60,000	Rs. 3,68,000	
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. 2,40,000	Rs. 3,08,000	

He makes the following payments which entitles him to claim deductions under Chapter VI-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 full-time education of his two children in school (Rs. 9,000 + Rs. 11,000)	Rs. 20,000	
(d) Sum deposited in a notified scheme of term deposit for period of 5 years with scheduled bank referred to in section 80C(2)(xxi)	Rs. 30,000	Rs. 1,03,000

‡ If the short-term capital gain/long-term capital gain has arose on sale of an equity share in a company or a unit of an equity oriented fund and transaction of transfer (sale) of equity share/unit is on or after 1-10-2004 and securities transaction tax has been paid at the time of transfer, then short-term capital gain will be charged to flat rate of 10% (for assessment year 2008-09)/15% (for assessment year 2009-10), u/s. 111A(1)(i) [Refer item 7 on page 161 and para No. 4.3 on page 39] and long-term capital gain will be exempt u/s. 10(38) [Refer sub-item (D) of item 6 on page 152].

* Dividend income of Rs. 25,000 (for assessment year 2008-09)/Rs. 20,000 (for assessment year 2009-10), 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. 5,000 (for assessment year 2008-09)/Rs. 10,000 (for assessment year 2009-10), is to be excluded u/s. 10(35).

ASSESSMENT YEAR

2008-09 2009-10

COMPUTATION OF TAXABLE INCOME:

Gross total income as reduced by long-term capital gains [Refer (C) on facing page] Rs. 2,40,000 Rs. 3,08,000

Less: Deductions under Chapter VI-A:

ASSESSMENT YEARS 2008-09 & 2009-10:

(1) In respect of L.I.P., etc. (Refer 3 on facing page).. .. Rs. 1,03,000

Deduction u/s. 80C:

In respect of L.I.P., etc. deduction restricted u/s. 80C(1) (Rs.1,00,000) (Rs.1,00,000)

(2) In respect of medical insurance premia paid Rs. 8,000Deduction u/s. 80D: As premia does not exceed Rs. 15,000 100% of
premia paid Rs. 8,000 (Rs. 8,000) (Rs. 8,000)(3) In respect of interest on bank deposits Rs. 16,000Deduction u/s. 80L(1) is not available as said section is omitted
w.e.f. 1-4-2006 (assessment year 2006-07 and onwards) (Rs. Nil) (Rs. Nil)

Base for deduction u/s. 80G Rs. 1,32,000 Rs. 2,00,000

(4) 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 2008-09:

Rs. 13,200 being 10% of Rs. 1,32,000.

Donations qualifying for deduction Rs. 13,200

50% of the qualifying amount Rs. 13,200 (Rs. 6,600) —

(b) Assessment year 2009-10:

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. 1,25,400 Rs. 1,90,000

Add: Long-term capital gains of land [Refer (B) on facing page] (E) Rs. 20,000 Rs. 60,000

Taxable income inclusive of long-term capital gains (F) Rs. 1,45,400 Rs. 2,50,000

TAX COMPUTATION:

Income-tax on taxable income, as reduced by long-term capital gains, Rs. 1,25,400
[Refer (D)] for assessment year 2008-09 (Refer pp. 230-231) Rs. 1,540 Rs. —Income-tax on taxable income, as reduced by long-term capital gains, Rs. 1,90,000
[Refer (D)] for assessment year 2009-10 (Refer page 299) Rs. — Rs. 4,000

Income-tax on taxable income as reduced by long-term capital gains [Refer (D)] Rs. 1,540 Rs. 4,000

Add: Income-tax @ 20% on long-term capital gains u/s. 112(1)(a)(ii)⁷:Income-tax @ 20% on Rs. 20,000 [Refer (E)]/Rs. 60,000 [Refer (E)] Rs. 4,000 Rs. 12,000Aggregate of income-tax Rs. 5,540 Rs. 16,000

Add: Additional surcharge on income-tax:

(1) Education Cess @ 2% & Sec. High. Edu. cess @ 1% on Rs. 5,540 for A.Y. 2008-09 Rs. 166 Rs. —

(2) Education Cess @ 2% & Sec. High. Edu. cess @ 1% on Rs. 16,000 for A.Y. 2009-10 Rs. — Rs. 480

TAX⁸/ADVANCE TAX PAYABLE⁸ ON TAXABLE INCOME [Refer (F)].. .. Rs. 5,706 Rs. 16,480ROUNDED OFF TAX PAYABLE [VIDE SECTION 288B] Rs. 5,710 Rs. 16,480

7. Refer footnote No. 4 on page 294.

8. Surcharge on income-tax is not payable for assessment year 2008-09/2009-10, as the taxable income does not exceed Rs. 10,00,000/
Rs. 10,00,000.

TABLE A
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,50,000 & Rs. 3,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

(1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and

(2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 10%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
10	1	0.02	0.01	1.03	80	8	0.16	0.08	8.24	600	60	1.20	0.60	61.80
20	2	0.04	0.02	2.06	90	9	0.18	0.09	9.27	700	70	1.40	0.70	72.10
30	3	0.06	0.03	3.09	100	10	0.20	0.10	10.30	800	80	1.60	0.80	82.40
40	4	0.08	0.04	4.12	200	20	0.40	0.20	20.60	900	90	1.80	0.90	92.70
50	5	0.10	0.05	5.15	300	30	0.60	0.30	30.90	1000	100	2.00	1.00	103.00
60	6	0.12	0.06	6.18	400	40	0.80	0.40	41.20	2000	200	4.00	2.00	206.00
70	7	0.14	0.07	7.21	500	50	1.00	0.50	51.50	3000	300	6.00	3.00	309.00
80	8	0.16	0.08	8.24	600	60	1.20	0.60	61.80	4000	400	8.00	4.00	412.00

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'F' to 'J' on pp. 306-313.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'K' to 'O' on pp. 314-321.

150000	Nil	Nil	Nil	Nil	151000	100	2	1	103	161000	1100	22	11	1133
150100	10	0.20	0.10	10.30	152000	200	4	2	206	162000	1200	24	12	1236
150200	20	0.40	0.20	20.60	153000	300	6	3	309	163000	1300	26	13	1339
150300	30	0.60	0.30	30.90	154000	400	8	4	412	164000	1400	28	14	1442
150400	40	0.80	0.40	41.20	155000	500	10	5	515	165000	1500	30	15	1545
150500	50	1.00	0.50	51.50	156000	600	12	6	618	166000	1600	32	16	1648
150600	60	1.20	0.60	61.80	157000	700	14	7	721	167000	1700	34	17	1751
150700	70	1.40	0.70	72.10	158000	800	16	8	824	168000	1800	36	18	1854
150800	80	1.60	0.80	82.40	159000	900	18	9	927	169000	1900	38	19	1957
150900	90	1.80	0.90	92.70	160000	1000	20	10	1030	170000	2000	40	20	2060

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227].

* 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. 1,50,000** 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 2008-09 is given on pp. 230-234.

TABLE A—(Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.	
170000	2000	40	20	2060	200000	5000	100	50	5150	230000	8000	160	80	8240
171000	2100	42	21	2163	201000	5100	102	51	5253	231000	8100	162	81	8343
172000	2200	44	22	2266	202000	5200	104	52	5356	232000	8200	164	82	8446
173000	2300	46	23	2369	203000	5300	106	53	5459	233000	8300	166	83	8549
174000	2400	48	24	2472	204000	5400	108	54	5562	234000	8400	168	84	8652
175000	2500	50	25	2575	205000	5500	110	55	5665	235000	8500	170	85	8755
176000	2600	52	26	2678	206000	5600	112	56	5768	236000	8600	172	86	8858
177000	2700	54	27	2781	207000	5700	114	57	5871	237000	8700	174	87	8961
178000	2800	56	28	2884	208000	5800	116	58	5974	238000	8800	176	88	9064
179000	2900	58	29	2987	209000	5900	118	59	6077	239000	8900	178	89	9167
180000	3000	60	30	3090	210000	6000	120	60	6180	240000	9000	180	90	9270
181000	3100	62	31	3193	211000	6100	122	61	6283	241000	9100	182	91	9373
182000	3200	64	32	3296	212000	6200	124	62	6386	242000	9200	184	92	9476
183000	3300	66	33	3399	213000	6300	126	63	6489	243000	9300	186	93	9579
184000	3400	68	34	3502	214000	6400	128	64	6592	244000	9400	188	94	9682
185000	3500	70	35	3605	215000	6500	130	65	6695	245000	9500	190	95	9785
186000	3600	72	36	3708	216000	6600	132	66	6798	246000	9600	192	96	9888
187000	3700	74	37	3811	217000	6700	134	67	6901	247000	9700	194	97	9991
188000	3800	76	38	3914	218000	6800	136	68	7004	248000	9800	196	98	10094
189000	3900	78	39	4017	219000	6900	138	69	7107	249000	9900	198	99	10197
190000	4000	80	40	4120	220000	7000	140	70	7210	250000	10000	200	100	10300
191000	4100	82	41	4223	221000	7100	142	71	7313	255000	10500	210	105	10815
192000	4200	84	42	4326	222000	7200	144	72	7416	260000	11000	220	110	11330
193000	4300	86	43	4429	223000	7300	146	73	7519	265000	11500	230	115	11845
194000	4400	88	44	4532	224000	7400	148	74	7622	270000	12000	240	120	12360
195000	4500	90	45	4635	225000	7500	150	75	7725	275000	12500	250	125	12875
196000	4600	92	46	4738	226000	7600	152	76	7828	280000	13000	260	130	13390
197000	4700	94	47	4841	227000	7700	154	77	7931	285000	13500	270	135	13905
198000	4800	96	48	4944	228000	7800	156	78	8034	290000	14000	280	140	14420
199000	4900	98	49	5047	229000	7900	158	79	8137	295000	14500	290	145	14935
200000	5000	100	50	5150	230000	8000	160	80	8240	300000	15000	300	150	15450

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE B
INCOME-TAX** & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY*

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 3,00,000 & Rs. 5,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

(1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and

(2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
10	2	0.04	0.02	2.06	80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60
20	4	0.08	0.04	4.12	90	18	0.36	0.18	18.54	700	140	2.80	1.40	144.20
30	6	0.12	0.06	6.18	100	20	0.40	0.20	20.60	800	160	3.20	1.60	164.80
40	8	0.16	0.08	8.24	200	40	0.80	0.40	41.20	900	180	3.60	1.80	185.40
50	10	0.20	0.10	10.30	300	60	1.20	0.60	61.80	1000	200	4.00	2.00	206.00
60	12	0.24	0.12	12.36	400	80	1.60	0.80	82.40	2000	400	8.00	4.00	412.00
70	14	0.28	0.14	14.42	500	100	2.00	1.00	103.00	3000	600	12.00	6.00	618.00
80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60	4000	800	16.00	8.00	824.00

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'F' to 'J' on pp. 306-313.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'K' to 'O' on pp. 314-321.

300000	15000	300	150	15450	309000	16800	336	168	17304	318000	18600	372	186	19158
301000	15200	304	152	15656	310000	17000	340	170	17510	319000	18800	376	188	19364
302000	15400	308	154	15862	311000	17200	344	172	17716	320000	19000	380	190	19570
303000	15600	312	156	16068	312000	17400	348	174	17922	321000	19200	384	192	19776
304000	15800	316	158	16274	313000	17600	352	176	18128	322000	19400	388	194	19982
305000	16000	320	160	16480	314000	17800	356	178	18334	323000	19600	392	196	20188
306000	16200	324	162	16686	315000	18000	360	180	18540	324000	19800	396	198	20394
307000	16400	328	164	16892	316000	18200	364	182	18746	325000	20000	400	200	20600
308000	16600	332	166	17098	317000	18400	368	184	18952	326000	20200	404	202	20806
309000	16800	336	168	17304	318000	18600	372	186	19158	327000	20400	408	204	21012

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227].

* 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. 1,50,000** 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 2008-09 is given on pp. 234-235.

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.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.	
327000	20400	408	204	21012	358000	26600	532	266	27398	389000	32800	656	328	33784
328000	20600	412	206	21218	359000	26800	536	268	27604	390000	33000	660	330	33990
329000	20800	416	208	21424	360000	27000	540	270	27810	391000	33200	664	332	34196
330000	21000	420	210	21630	361000	27200	544	272	28016	392000	33400	668	334	34402
331000	21200	424	212	21836	362000	27400	548	274	28222	393000	33600	672	336	34608
332000	21400	428	214	22042	363000	27600	552	276	28428	394000	33800	676	338	34814
333000	21600	432	216	22248	364000	27800	556	278	28634	395000	34000	680	340	35020
334000	21800	436	218	22454	365000	28000	560	280	28840	396000	34200	684	342	35226
335000	22000	440	220	22660	366000	28200	564	282	29046	397000	34400	688	344	35432
336000	22200	444	222	22866	367000	28400	568	284	29252	398000	34600	692	346	35638
337000	22400	448	224	23072	368000	28600	572	286	29458	399000	34800	696	348	35844
338000	22600	452	226	23278	369000	28800	576	288	29664	400000	35000	700	350	36050
339000	22800	456	228	23484	370000	29000	580	290	29870	405000	36000	720	360	37080
340000	23000	460	230	23690	371000	29200	584	292	30076	410000	37000	740	370	38110
341000	23200	464	232	23896	372000	29400	588	294	30282	415000	38000	760	380	39140
342000	23400	468	234	24102	373000	29600	592	296	30488	420000	39000	780	390	40170
343000	23600	472	236	24308	374000	29800	596	298	30694	425000	40000	800	400	41200
344000	23800	476	238	24514	375000	30000	600	300	30900	430000	41000	820	410	42230
345000	24000	480	240	24720	376000	30200	604	302	31106	435000	42000	840	420	43260
346000	24200	484	242	24926	377000	30400	608	304	31312	440000	43000	860	430	44290
347000	24400	488	244	25132	378000	30600	612	306	31518	445000	44000	880	440	45320
348000	24600	492	246	25338	379000	30800	616	308	31724	450000	45000	900	450	46350
349000	24800	496	248	25544	380000	31000	620	310	31930	455000	46000	920	460	47380
350000	25000	500	250	25750	381000	31200	624	312	32136	460000	47000	940	470	48410
351000	25200	504	252	25956	382000	31400	628	314	32342	465000	48000	960	480	49440
352000	25400	508	254	26162	383000	31600	632	316	32548	470000	49000	980	490	50470
353000	25600	512	256	26368	384000	31800	636	318	32754	475000	50000	1000	500	51500
354000	25800	516	258	26574	385000	32000	640	320	32960	480000	51000	1020	510	52530
355000	26000	520	260	26780	386000	32200	644	322	33166	485000	52000	1040	520	53560
356000	26200	524	262	26986	387000	32400	648	324	33372	490000	53000	1060	530	54590
357000	26400	528	264	27192	388000	32600	652	326	33578	495000	54000	1080	540	55620
358000	26600	532	266	27398	389000	32800	656	328	33784	500000	55000	1100	550	56650

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE C
INCOME-TAX & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 5,00,000 & Rs. 10,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

(1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and

(2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30% †† ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs. P.
		EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
10	3	0.06	0.03	3.09	80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40
20	6	0.12	0.06	6.18	90	27	0.54	0.27	27.81	700	210	4.20	2.10	216.30
30	9	0.18	0.09	9.27	100	30	0.60	0.30	30.90	800	240	4.80	2.40	247.20
40	12	0.24	0.12	12.36	200	60	1.20	0.60	61.80	900	270	5.40	2.70	278.10
50	15	0.30	0.15	15.45	300	90	1.80	0.90	92.70	1000	300	6.00	3.00	309.00
60	18	0.36	0.18	18.54	400	120	2.40	1.20	123.60	2000	600	12.00	6.00	618.00
70	21	0.42	0.21	21.63	500	150	3.00	1.50	154.50	3000	900	18.00	9.00	927.00
80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40	4000	1200	24.00	12.00	1236.00

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'F' to 'J' on pp. 306-313.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'K' to 'O' on pp. 314-321.

500000	55000	1100	550	56650	509000	57700	1154	577	59431	518000	60400	1208	604	62212
501000	55300	1106	553	56959	510000	58000	1160	580	59740	519000	60700	1214	607	62521
502000	55600	1112	556	57268	511000	58300	1166	583	60049	520000	61000	1220	610	62830
503000	55900	1118	559	57577	512000	58600	1172	586	60358	521000	61300	1226	613	63139
504000	56200	1124	562	57886	513000	58900	1178	589	60667	522000	61600	1232	616	63448
505000	56500	1130	565	58195	514000	59200	1184	592	60976	523000	61900	1238	619	63757
506000	56800	1136	568	58504	515000	59500	1190	595	61285	524000	62200	1244	622	64066
507000	57100	1142	571	58813	516000	59800	1196	598	61594	525000	62500	1250	625	64375
508000	57400	1148	574	59122	517000	60100	1202	601	61903	530000	64000	1280	640	65920
509000	57700	1154	577	59431	518000	60400	1208	604	62212	535000	65500	1310	655	67465

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227].

* 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. 1,50,000** as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 10,00,000**.

§ The relevant table for the assessment year 2008-09 is given on pp. 234-235.

TABLE C—(Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		Total Rs.
		EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.				EDU. CESS Rs.	S. & H. EDU. CESS Rs.	
535000	65500	1310	655	67465	690000	112000	2240	1120	115360	845000	158500	3170	1585	163255
540000	67000	1340	670	69010	695000	113500	2270	1135	116905	850000	160000	3200	1600	164800
545000	68500	1370	685	70555	700000	115000	2300	1150	118450	855000	161500	3230	1615	166345
550000	70000	1400	700	72100	705000	116500	2330	1165	119995	860000	163000	3260	1630	167890
555000	71500	1430	715	73645	710000	118000	2360	1180	121540	865000	164500	3290	1645	169435
560000	73000	1460	730	75190	715000	119500	2390	1195	123085	870000	166000	3320	1660	170980
565000	74500	1490	745	76735	720000	121000	2420	1210	124630	875000	167500	3350	1675	172525
570000	76000	1520	760	78280	725000	122500	2450	1225	126175	880000	169000	3380	1690	174070
575000	77500	1550	775	79825	730000	124000	2480	1240	127720	885000	170500	3410	1705	175615
580000	79000	1580	790	81370	735000	125500	2510	1255	129265	890000	172000	3440	1720	177160
585000	80500	1610	805	82915	740000	127000	2540	1270	130810	895000	173500	3470	1735	178705
590000	82000	1640	820	84460	745000	128500	2570	1285	132355	900000	175000	3500	1750	180250
595000	83500	1670	835	86005	750000	130000	2600	1300	133900	905000	176500	3530	1765	181795
600000	85000	1700	850	87550	755000	131500	2630	1315	135445	910000	178000	3560	1780	183340
605000	86500	1730	865	89095	760000	133000	2660	1330	136990	915000	179500	3590	1795	184885
610000	88000	1760	880	90640	765000	134500	2690	1345	138535	920000	181000	3620	1810	186430
615000	89500	1790	895	92185	770000	136000	2720	1360	140080	925000	182500	3650	1825	187975
620000	91000	1820	910	93730	775000	137500	2750	1375	141625	930000	184000	3680	1840	189520
625000	92500	1850	925	95275	780000	139000	2780	1390	143170	935000	185500	3710	1855	191065
630000	94000	1880	940	96820	785000	140500	2810	1405	144715	940000	187000	3740	1870	192610
635000	95500	1910	955	98365	790000	142000	2840	1420	146260	945000	188500	3770	1885	194155
640000	97000	1940	970	99910	795000	143500	2870	1435	147805	950000	190000	3800	1900	195700
645000	98500	1970	985	101455	800000	145000	2900	1450	149350	955000	191500	3830	1915	197245
650000	100000	2000	1000	103000	805000	146500	2930	1465	150895	960000	193000	3860	1930	198790
655000	101500	2030	1015	104545	810000	148000	2960	1480	152440	965000	194500	3890	1945	200335
660000	103000	2060	1030	106090	815000	149500	2990	1495	153985	970000	196000	3920	1960	201880
665000	104500	2090	1045	107635	820000	151000	3020	1510	155530	975000	197500	3950	1975	203425
670000	106000	2120	1060	109180	825000	152500	3050	1525	157075	980000	199000	3980	1990	204970
675000	107500	2150	1075	110725	830000	154000	3080	1540	158620	985000	200500	4010	2005	206515
680000	109000	2180	1090	112270	835000	155500	3110	1555	160165	990000	202000	4040	2020	208060
685000	110500	2210	1105	113815	840000	157000	3140	1570	161710	995000	203500	4070	2035	209605
690000	112000	2240	1120	115360	845000	158500	3170	1585	163255	1000000	205000	4100	2050	211150

† Refer † marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

§ Refer § marked note on facing page.

TABLE D
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,30,590

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

(1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and

(2) Deduction of income-tax, S.C. & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.		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.		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'F' to 'J' on pp. 306-313.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'K' to 'O' on pp. 314-321.

1000000	205000	Nil	205000	4100	2050	211150	1014000	209200	9800	219000	4380.00	2190.00	225570.00
1001000	205300	700	206000	4120	2060	212180	1016000	209800	11200	221000	4420.00	2210.00	227630.00
1002000	205600	1400	207000	4140	2070	213210	1018000	210400	12600	223000	4460.00	2230.00	229690.00
1003000	205900	2100	208000	4160	2080	214240	1020000	211000	14000	225000	4500.00	2250.00	231750.00
1004000	206200	2800	209000	4180	2090	215270	1022000	211600	15400	227000	4540.00	2270.00	233810.00
1006000	206800	4200	211000	4220	2110	217330	1024000	212200	16800	229000	4580.00	2290.00	235870.00
1008000	207400	5600	213000	4260	2130	219390	1026000	212800	18200	231000	4620.00	2310.00	237930.00
1010000	208000	7000	215000	4300	2150	221450	1028000	213400	19600	233000	4660.00	2330.00	239990.00
1012000	208600	8400	217000	4340	2170	223510	1030000	214000	21000	235000	4700.00	2350.00	242050.00
1014000	209200	9800	219000	4380	2190	225570	1030590	214177	21413	235590	4711.80	2355.90	242657.70

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% on I.T. & S.C.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227].

* 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. 1,50,000 as there is no distinction in tax rates applicable to specified HUFs and non-specified HUFs. For examples, refer pp. 293-297.

†† Surcharge at the rate of 10% on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part III of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,30,590 [Refer table above]. Even in the case of a non-resident, surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000 [Vide item (i) of Paragraph A of Part III of the First Schedule to the Finance Act, 2008].

§ The relevant table for the assessment year 2008-09 is given on pp. 236-237.

TABLE E
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUALS (OTHER THAN SPECIFIED INDIVIDUALS†)
AND HINDU UNDIVIDED FAMILIES ONLY***

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,30,600 & Rs. 11,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
(2) Deduction of income-tax, S.C. & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE : 10% OF THE INCOME TAX†

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.		Total of I.T., S.C. & ADDL. S.C. Rs. P.	Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs. P.	Sub-total of I.T. & S.C. †† Rs. P.	ADDL. S.C.		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. EDU. CESS Rs. P.	
10	3	0.30	3.30	0.07	0.03	3.40	300	90	9	99	1.98	0.99	101.97
20	6	0.60	6.60	0.13	0.07	6.80	400	120	12	132	2.64	1.32	135.96
30	9	0.90	9.90	0.20	0.10	10.20	500	150	15	165	3.30	1.65	169.95
40	12	1.20	13.20	0.26	0.13	13.60	600	180	18	198	3.96	1.98	203.94
50	15	1.50	16.50	0.33	0.17	17.00	700	210	21	231	4.62	2.31	237.93
60	18	1.80	19.80	0.40	0.20	20.39	800	240	24	264	5.28	2.64	271.92
70	21	2.10	23.10	0.46	0.23	23.79	900	270	27	297	5.94	2.97	305.91
80	24	2.40	26.40	0.53	0.26	27.19	1000	300	30	330	6.60	3.30	339.90
90	27	2.70	29.70	0.59	0.30	30.59	2000	600	60	660	13.20	6.60	679.80
100	30	3.00	33.00	0.66	0.33	33.99	3000	900	90	990	19.80	9.90	1019.70
200	60	6.00	66.00	1.32	0.66	67.98	4000	1200	120	1320	26.40	13.20	1359.60

† This table is applicable to an individual other than individual specified below –

1. In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'F' to 'J' on pp. 306-313.
2. In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the financial year ending on 31-3-2009. For computation of tax in the case of such an individual, refer tables 'K' to 'O' on pp. 314-321.

1030600	214180	21418	235598	4711.96	2355.98	242665.94	1056000	221800	22180	243980	4879.60	2439.80	251299.40
1032000	214600	21460	236060	4721.20	2360.60	243141.80	1058000	222400	22240	244640	4892.80	2446.40	251979.20
1034000	215200	21520	236720	4734.40	2367.20	243821.60	1060000	223000	22300	245300	4906.00	2453.00	252659.00
1036000	215800	21580	237380	4747.60	2373.80	244501.40	1062000	223600	22360	245960	4919.20	2459.60	253338.80
1038000	216400	21640	238040	4760.80	2380.40	245181.20	1064000	224200	22420	246620	4932.40	2466.20	254018.60
1040000	217000	21700	238700	4774.00	2387.00	245861.00	1066000	224800	22480	247280	4945.60	2472.80	254698.40
1042000	217600	21760	239360	4787.20	2393.60	246540.80	1070000	226000	22600	248600	4972.00	2486.00	256058.00
1044000	218200	21820	240020	4800.40	2400.20	247220.60	1075000	227500	22750	250250	5005.00	2502.50	257757.50
1046000	218800	21880	240680	4813.60	2406.80	247900.40	1080000	229000	22900	251900	5038.00	2519.00	259457.00
1048000	219400	21940	241340	4826.80	2413.40	248580.20	1085000	230500	23050	253550	5071.00	2535.50	261156.50
1050000	220000	22000	242000	4840.00	2420.00	249260.00	1090000	232000	23200	255200	5104.00	2552.00	262856.00
1052000	220600	22060	242660	4853.20	2426.60	249939.80	1095000	233500	23350	256850	5137.00	2568.50	264555.50
1054000	221200	22120	243320	4866.40	2433.20	250619.60	1100000	235000	23500	258500	5170.00	2585.00	266255.00

For Note, **, *, †† & §, refer Note, **, *, †† & §, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2009-10:

				Income-tax	Surcharge	Sub-total of I.T. & S.C.	ADDL. S.C.		Total of I.T., S.C. & Addl. S.C.
	Rs.						E.C.	S.H.E.C.	
For every	Rs.	10,000	..	3,000.00	300.00	3,300.00	66.00	33.00	3,399.00
For every	Rs.	1,000	..	300.00	30.00	330.00	6.60	3.30	339.90
For every	Rs.	100	..	30.00	3.00	33.00	0.66	0.33	33.99
For every	Rs.	10	..	3.00	0.30	3.30	0.07	0.03	3.40

TABLE F
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 1,80,000 & Rs. 3,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 10%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						
10	1	0.02	0.01	1.03	80	8	0.16	0.08	8.24	600	60	1.20	0.60	61.80
20	2	0.04	0.02	2.06	90	9	0.18	0.09	9.27	700	70	1.40	0.70	72.10
30	3	0.06	0.03	3.09	100	10	0.20	0.10	10.30	800	80	1.60	0.80	82.40
40	4	0.08	0.04	4.12	200	20	0.40	0.20	20.60	900	90	1.80	0.90	92.70
50	5	0.10	0.05	5.15	300	30	0.60	0.30	30.90	1000	100	2.00	1.00	103.00
60	6	0.12	0.06	6.18	400	40	0.80	0.40	41.20	2000	200	4.00	2.00	206.00
70	7	0.14	0.07	7.21	500	50	1.00	0.50	51.50	3000	300	6.00	3.00	309.00
80	8	0.16	0.08	8.24	600	60	1.20	0.60	61.80	4000	400	8.00	4.00	412.00

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2009, refer table 'K' to 'O' on pp. 314-321.

180000	Nil	Nil	Nil	Nil	181000	100	2.00	1.00	103.00	181900	190	3.80	1.90	195.70
180100	10	0.20	0.10	10.30	181100	110	2.20	1.10	113.30	182000	200	4.00	2.00	206.00
180200	20	0.40	0.20	20.60	181200	120	2.40	1.20	123.60	182100	210	4.20	2.10	216.30
180300	30	0.60	0.30	30.90	181300	130	2.60	1.30	133.90	182200	220	4.40	2.20	226.60
180400	40	0.80	0.40	41.20	181400	140	2.80	1.40	144.20	182300	230	4.60	2.30	236.90
180500	50	1.00	0.50	51.50	181500	150	3.00	1.50	154.50	182400	240	4.80	2.40	247.20
180600	60	1.20	0.60	61.80	181600	160	3.20	1.60	164.80	182500	250	5.00	2.50	257.50
180700	70	1.40	0.70	72.10	181700	170	3.40	1.70	175.10	182600	260	5.20	2.60	267.80
180800	80	1.60	0.80	82.40	181800	180	3.60	1.80	185.40	182700	270	5.40	2.70	278.10
180900	90	1.80	0.90	92.70	181900	190	3.80	1.90	195.70	182800	280	5.60	2.80	288.40

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-207

§ The relevant table for the assessment year 2008-09 is given on pp. 238-242.

TABLE F — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
182800	280	5.60	2.80	288.40	202000	2200	44	22	2266	231000	5100	102	51	5253
182900	290	5.80	2.90	298.70	203000	2300	46	23	2369	232000	5200	104	52	5356
183000	300	6.00	3.00	309.00	204000	2400	48	24	2472	233000	5300	106	53	5459
183100	310	6.20	3.10	319.30	205000	2500	50	25	2575	234000	5400	108	54	5562
183200	320	6.40	3.20	329.60	206000	2600	52	26	2678	235000	5500	110	55	5665
183300	330	6.60	3.30	339.90	207000	2700	54	27	2781	236000	5600	112	56	5768
183400	340	6.80	3.40	350.20	208000	2800	56	28	2884	237000	5700	114	57	5871
183500	350	7.00	3.50	360.50	209000	2900	58	29	2987	238000	5800	116	58	5974
183600	360	7.20	3.60	370.80	210000	3000	60	30	3090	239000	5900	118	59	6077
183700	370	7.40	3.70	381.10	211000	3100	62	31	3193	240000	6000	120	60	6180
183800	380	7.60	3.80	391.40	212000	3200	64	32	3296	241000	6100	122	61	6283
183900	390	7.80	3.90	401.70	213000	3300	66	33	3399	242000	6200	124	62	6386
184000	400	8.00	4.00	412.00	214000	3400	68	34	3502	243000	6300	126	63	6489
185000	500	10.00	5.00	515.00	215000	3500	70	35	3605	244000	6400	128	64	6592
186000	600	12.00	6.00	618.00	216000	3600	72	36	3708	245000	6500	130	65	6695
187000	700	14.00	7.00	721.00	217000	3700	74	37	3811	246000	6600	132	66	6798
188000	800	16.00	8.00	824.00	218000	3800	76	38	3914	247000	6700	134	67	6901
189000	900	18.00	9.00	927.00	219000	3900	78	39	4017	248000	6800	136	68	7004
190000	1000	20.00	10.00	1030.00	220000	4000	80	40	4120	249000	6900	138	69	7107
191000	1100	22.00	11.00	1133.00	221000	4100	82	41	4223	250000	7000	140	70	7210
192000	1200	24.00	12.00	1236.00	222000	4200	84	42	4326	255000	7500	150	75	7725
193000	1300	26.00	13.00	1339.00	223000	4300	86	43	4429	260000	8000	160	80	8240
194000	1400	28.00	14.00	1442.00	224000	4400	88	44	4532	265000	8500	170	85	8755
195000	1500	30.00	15.00	1545.00	225000	4500	90	45	4635	270000	9000	180	90	9270
196000	1600	32.00	16.00	1648.00	226000	4600	92	46	4738	275000	9500	190	95	9785
197000	1700	34.00	17.00	1751.00	227000	4700	94	47	4841	280000	10000	200	100	10300
198000	1800	36.00	18.00	1854.00	228000	4800	96	48	4944	285000	10500	210	105	10815
199000	1900	38.00	19.00	1957.00	229000	4900	98	49	5047	290000	11000	220	110	11330
200000	2000	40.00	20.00	2060.00	230000	5000	100	50	5150	295000	11500	230	115	11845
201000	2100	42.00	21.00	2163.00	231000	5100	102	51	5253	300000	12000	240	120	12360

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE G
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 3,00,000 & Rs. 5,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	2	0.04	0.02	2.06	80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60
20	4	0.08	0.04	4.12	90	18	0.36	0.18	18.54	700	140	2.80	1.40	144.20
30	6	0.12	0.06	6.18	100	20	0.40	0.20	20.60	800	160	3.20	1.60	164.80
40	8	0.16	0.08	8.24	200	40	0.80	0.40	41.20	900	180	3.60	1.80	185.40
50	10	0.20	0.10	10.30	300	60	1.20	0.60	61.80	1000	200	4.00	2.00	206.00
60	12	0.24	0.12	12.36	400	80	1.60	0.80	82.40	2000	400	8.00	4.00	412.00
70	14	0.28	0.14	14.42	500	100	2.00	1.00	103.00	3000	600	12.00	6.00	618.00
80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60	4000	800	16.00	8.00	824.00

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2009, refer table 'K' to 'O' on pp. 314-321.

300000	12000	240	120	12360	309000	13800	276	138	14214	318000	15600	312	156	16068
301000	12200	244	122	12566	310000	14000	280	140	14420	319000	15800	316	158	16274
302000	12400	248	124	12772	311000	14200	284	142	14626	320000	16000	320	160	16480
303000	12600	252	126	12978	312000	14400	288	144	14832	321000	16200	324	162	16686
304000	12800	256	128	13184	313000	14600	292	146	15038	322000	16400	328	164	16892
305000	13000	260	130	13390	314000	14800	296	148	15244	323000	16600	332	166	17098
306000	13200	264	132	13596	315000	15000	300	150	15450	324000	16800	336	168	17304
307000	13400	268	134	13802	316000	15200	304	152	15656	325000	17000	340	170	17510
308000	13600	272	136	14008	317000	15400	308	154	15862	326000	17200	344	172	17716
309000	13800	276	138	14214	318000	15600	312	156	16068	327000	17400	348	174	17922

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

§ The relevant table for the assessment year 2008-09 is given on pp. 242-243.

TABLE G — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
327000	17400	348	174	17922	358000	23600	472	236	24308	389000	29800	596	298	30694
328000	17600	352	176	18128	359000	23800	476	238	24514	390000	30000	600	300	30900
329000	17800	356	178	18334	360000	24000	480	240	24720	391000	30200	604	302	31106
330000	18000	360	180	18540	361000	24200	484	242	24926	392000	30400	608	304	31312
331000	18200	364	182	18746	362000	24400	488	244	25132	393000	30600	612	306	31518
332000	18400	368	184	18952	363000	24600	492	246	25338	394000	30800	616	308	31724
333000	18600	372	186	19158	364000	24800	496	248	25544	395000	31000	620	310	31930
334000	18800	376	188	19364	365000	25000	500	250	25750	396000	31200	624	312	32136
335000	19000	380	190	19570	366000	25200	504	252	25956	397000	31400	628	314	32342
336000	19200	384	192	19776	367000	25400	508	254	26162	398000	31600	632	316	32548
337000	19400	388	194	19982	368000	25600	512	256	26368	399000	31800	636	318	32754
338000	19600	392	196	20188	369000	25800	516	258	26574	400000	32000	640	320	32960
339000	19800	396	198	20394	370000	26000	520	260	26780	405000	33000	660	330	33990
340000	20000	400	200	20600	371000	26200	524	262	26986	410000	34000	680	340	35020
341000	20200	404	202	20806	372000	26400	528	264	27192	415000	35000	700	350	36050
342000	20400	408	204	21012	373000	26600	532	266	27398	420000	36000	720	360	37080
343000	20600	412	206	21218	374000	26800	536	268	27604	425000	37000	740	370	38110
344000	20800	416	208	21424	375000	27000	540	270	27810	430000	38000	760	380	39140
345000	21000	420	210	21630	376000	27200	544	272	28016	435000	39000	780	390	40170
346000	21200	424	212	21836	377000	27400	548	274	28222	440000	40000	800	400	41200
347000	21400	428	214	22042	378000	27600	552	276	28428	445000	41000	820	410	42230
348000	21600	432	216	22248	379000	27800	556	278	28634	450000	42000	840	420	43260
349000	21800	436	218	22454	380000	28000	560	280	28840	455000	43000	860	430	44290
350000	22000	440	220	22660	381000	28200	564	282	29046	460000	44000	880	440	45320
351000	22200	444	222	22866	382000	28400	568	284	29252	465000	45000	900	450	46350
352000	22400	448	224	23072	383000	28600	572	286	29458	470000	46000	920	460	47380
353000	22600	452	226	23278	384000	28800	576	288	29664	475000	47000	940	470	48410
354000	22800	456	228	23484	385000	29000	580	290	29870	480000	48000	960	480	49440
355000	23000	460	230	23690	386000	29200	584	292	30076	485000	49000	980	490	50470
356000	23200	464	232	23896	387000	29400	588	294	30282	490000	50000	1000	500	51500
357000	23400	468	234	24102	388000	29600	592	296	30488	495000	51000	1020	510	52530
358000	23600	472	236	24308	389000	29800	596	298	30694	500000	52000	1040	520	53560

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE H
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 5,00,000 & Rs. 10,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) S. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	0.06	0.03	3.09	80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40
20	6	0.12	0.06	6.18	90	27	0.54	0.27	27.81	700	210	4.20	2.10	216.30
30	9	0.18	0.09	9.27	100	30	0.60	0.30	30.90	800	240	4.80	2.40	247.20
40	12	0.24	0.12	12.36	200	60	1.20	0.60	61.80	900	270	5.40	2.70	278.10
50	15	0.30	0.15	15.45	300	90	1.80	0.90	92.70	1000	300	6.00	3.00	309.00
60	18	0.36	0.18	18.54	400	120	2.40	1.20	123.60	2000	600	12.00	6.00	618.00
70	21	0.42	0.21	21.63	500	150	3.00	1.50	154.50	3000	900	18.00	9.00	927.00
80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40	4000	1200	24.00	12.00	1236.00

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2009, refer table 'K' to 'O' on pp. 314-321.

500000	52000	1040	520	53560	509000	54700	1094	547	56341	518000	57400	1148	574	59122
501000	52300	1046	523	53869	510000	55000	1100	550	56650	519000	57700	1154	577	59431
502000	52600	1052	526	54178	511000	55300	1106	553	56959	520000	58000	1160	580	59740
503000	52900	1058	529	54487	512000	55600	1112	556	57268	521000	58300	1166	583	60049
504000	53200	1064	532	54796	513000	55900	1118	559	57577	522000	58600	1172	586	60358
505000	53500	1070	535	55105	514000	56200	1124	562	57886	523000	58900	1178	589	60667
506000	53800	1076	538	55414	515000	56500	1130	565	58195	524000	59200	1184	592	60976
507000	54100	1082	541	55723	516000	56800	1136	568	58504	525000	59500	1190	595	61285
508000	54400	1088	544	56032	517000	57100	1142	571	58813	530000	61000	1220	610	62830
509000	54700	1094	547	56341	518000	57400	1148	574	59122	535000	62500	1250	625	64375

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 10,00,000.**

§ The relevant table for the assessment year 2008-09 is given on pp. 242-243.

TABLE H — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
535000	62500	1250	625	64375	690000	109000	2180	1090	112270	845000	155500	3110	1555	160165
540000	64000	1280	640	65920	695000	110500	2210	1105	113815	850000	157000	3140	1570	161710
545000	65500	1310	655	67465	700000	112000	2240	1120	115360	855000	158500	3170	1585	163255
550000	67000	1340	670	69010	705000	113500	2270	1135	116905	860000	160000	3200	1600	164800
555000	68500	1370	685	70555	710000	115000	2300	1150	118450	865000	161500	3230	1615	166345
560000	70000	1400	700	72100	715000	116500	2330	1165	119995	870000	163000	3260	1630	167890
565000	71500	1430	715	73645	720000	118000	2360	1180	121540	875000	164500	3290	1645	169435
570000	73000	1460	730	75190	725000	119500	2390	1195	123085	880000	166000	3320	1660	170980
575000	74500	1490	745	76735	730000	121000	2420	1210	124630	885000	167500	3350	1675	172525
580000	76000	1520	760	78280	735000	122500	2450	1225	126175	890000	169000	3380	1690	174070
585000	77500	1550	775	79825	740000	124000	2480	1240	127720	895000	170500	3410	1705	175615
590000	79000	1580	790	81370	745000	125500	2510	1255	129265	900000	172000	3440	1720	177160
595000	80500	1610	805	82915	750000	127000	2540	1270	130810	905000	173500	3470	1735	178705
600000	82000	1640	820	84460	755000	128500	2570	1285	132355	910000	175000	3500	1750	180250
605000	83500	1670	835	86005	760000	130000	2600	1300	133900	915000	176500	3530	1765	181795
610000	85000	1700	850	87550	765000	131500	2630	1315	135445	920000	178000	3560	1780	183340
615000	86500	1730	865	89095	770000	133000	2660	1330	136990	925000	179500	3590	1795	184885
620000	88000	1760	880	90640	775000	134500	2690	1345	138535	930000	181000	3620	1810	186430
625000	89500	1790	895	92185	780000	136000	2720	1360	140080	935000	182500	3650	1825	187975
630000	91000	1820	910	93730	785000	137500	2750	1375	141625	940000	184000	3680	1840	189520
635000	92500	1850	925	95275	790000	139000	2780	1390	143170	945000	185500	3710	1855	191065
640000	94000	1880	940	96820	795000	140500	2810	1405	144715	950000	187000	3740	1870	192610
645000	95500	1910	955	98365	800000	142000	2840	1420	146260	955000	188500	3770	1885	194155
650000	97000	1940	970	99910	805000	143500	2870	1435	147805	960000	190000	3800	1900	195700
655000	98500	1970	985	101455	810000	145000	2900	1450	149350	965000	191500	3830	1915	197245
660000	100000	2000	1000	103000	815000	146500	2930	1465	150895	970000	193000	3860	1930	198790
665000	101500	2030	1015	104545	820000	148000	2960	1480	152440	975000	194500	3890	1945	200335
670000	103000	2060	1030	106090	825000	149500	2990	1495	153985	980000	196000	3920	1960	201880
675000	104500	2090	1045	107635	830000	151000	3020	1510	155530	985000	197500	3950	1975	203425
680000	106000	2120	1060	109180	835000	152500	3050	1525	157075	990000	199000	3980	1990	204970
685000	107500	2150	1075	110725	840000	154000	3080	1540	158620	995000	200500	4010	2005	206515
690000	109000	2180	1090	112270	845000	155500	3110	1555	160165	1000000	202000	4040	2020	208060

† Refer † marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

§ Refer § marked note on facing page.

TABLE I
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,30,140

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) “**ADVANCE TAX**” payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax, S.C. & addl. S.C. from “**SALARIES**” during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME-TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.		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.		Total of I.T., S.C. & ADDL. S.C. Rs. P.
				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.						EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2009, refer table ‘K’ to ‘O’ on pp. 314-321.

1000000	202000	Nil	202000	4040	2020	208060	1014000	206200	9800	216000	4320.00	2160.00	222480.00
1001000	202300	700	203000	4060	2030	209090	1016000	206800	11200	218000	4360.00	2180.00	224540.00
1002000	202600	1400	204000	4080	2040	210120	1018000	207400	12600	220000	4400.00	2200.00	226600.00
1003000	202900	2100	205000	4100	2050	211150	1020000	208000	14000	222000	4440.00	2220.00	228660.00
1004000	203200	2800	206000	4120	2060	212180	1022000	208600	15400	224000	4480.00	2240.00	230720.00
1006000	203800	4200	208000	4160	2080	214240	1024000	209200	16800	226000	4520.00	2260.00	232780.00
1008000	204400	5600	210000	4200	2100	216300	1026000	209800	18200	228000	4560.00	2280.00	234840.00
1010000	205000	7000	212000	4240	2120	218360	1028000	210400	19600	230000	4600.00	2300.00	236900.00
1012000	205600	8400	214000	4280	2140	220420	1030000	211000	21000	232000	4640.00	2320.00	238960.00
1014000	206200	9800	216000	4320	2160	222480	1030140	211042	21098	232140	4642.80	2321.40	239104.20

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% on I.T. & S.C.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

†† **Surcharge at the rate of 10%** on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part III of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,30,140 [Refer table above].

§ The relevant table for the assessment year 2008-09 is given on pp. 244-245.

TABLE J
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE
FOR INDIVIDUAL, BEING A WOMAN RESIDENT IN INDIA,
BELOW AGE OF 65 YEARS†**

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,30,150 & Rs. 11,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
(2) Deduction of income-tax, S.C. & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE : 10% OF THE INCOME-TAX††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% of I.T. & S.C.

Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs.	P.	Sub-total of I.T. & S.C.††		ADDL. S.C.				Total of I.T., S.C. & ADDL. S.C.		Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs.	P.	Sub-total of I.T. & S.C. ††		ADDL. S.C.				Total of I.T., S.C. & ADDL. S.C.	
						EDU. CESS	S. & H. ED. CESS	P.	P.									EDU. CESS	S. & H. ED. CESS	P.	P.		
10	3	0.30		3.30		0.07	0.03			3.40		300	90	9		99		1.98	0.99			101.97	
20	6	0.60		6.60		0.13	0.07			6.80		400	120	12		132		2.64	1.32			135.96	
30	9	0.90		9.90		0.20	0.10			10.20		500	150	15		165		3.30	1.65			169.95	
40	12	1.20		13.20		0.26	0.13			13.60		600	180	18		198		3.96	1.98			203.94	
50	15	1.50		16.50		0.33	0.17			17.00		700	210	21		231		4.62	2.31			237.93	
60	18	1.80		19.80		0.40	0.20			20.39		800	240	24		264		5.28	2.64			271.92	
70	21	2.10		23.10		0.46	0.23			23.79		900	270	27		297		5.94	2.97			305.91	
80	24	2.40		26.40		0.53	0.26			27.19		1000	300	30		330		6.60	3.30			339.90	
90	27	2.70		29.70		0.59	0.30			30.59		2000	600	60		660		13.20	6.60			679.80	
100	30	3.00		33.00		0.66	0.33			33.99		3000	900	90		990		19.80	9.90			1019.70	
200	60	6.00		66.00		1.32	0.66			67.98		4000	1200	120		1320		26.40	13.20			1359.60	

† This table is applicable to an individual, being a woman resident in India, and below the age of 65 years at any time during the financial year ending on 31-3-2009. If woman, being resident in India, who is of age of 65 years or more at any time during the financial year ending on 31-3-2009, refer table 'K' to 'O' on pp. 314-321.

1030150	211045	21104.50	232149.50	4642.99	2321.50	239113.99	1056000	218800	21880	240680	4813.60	2406.80	247900.40
1032000	211600	21160.00	232760.00	4655.20	2327.60	239742.80	1058000	219400	21940	241340	4826.80	2413.40	248580.20
1034000	212200	21220.00	233420.00	4668.40	2334.20	240422.60	1060000	220000	22000	242000	4840.00	2420.00	249260.00
1036000	212800	21280.00	234080.00	4681.60	2340.80	241102.40	1062000	220600	22060	242660	4853.20	2426.60	249939.80
1038000	213400	21340.00	234740.00	4694.80	2347.40	241782.20	1064000	221200	22120	243320	4866.40	2433.20	250619.60
1040000	214000	21400.00	235400.00	4708.00	2354.00	242462.00	1066000	221800	22180	243980	4879.60	2439.80	251299.40
1042000	214600	21460.00	236060.00	4721.20	2360.60	243141.80	1070000	223000	22300	245300	4906.00	2453.00	252659.00
1044000	215200	21520.00	236720.00	4734.40	2367.20	243821.60	1075000	224500	22450	246950	4939.00	2469.50	254358.50
1046000	215800	21580.00	237380.00	4747.60	2373.80	244501.40	1080000	226000	22600	248600	4972.00	2486.00	256058.00
1048000	216400	21640.00	238040.00	4760.80	2380.40	245181.20	1085000	227500	22750	250250	5005.00	2502.50	257757.50
1050000	217000	21700.00	238700.00	4774.00	2387.00	245861.00	1090000	229000	22900	251900	5038.00	2519.00	259457.00
1052000	217600	21760.00	239360.00	4787.20	2393.60	246540.80	1095000	230500	23050	253550	5071.00	2535.50	261156.50
1054000	218200	21820.00	240020.00	4800.40	2400.20	247220.60	1100000	232000	23200	255200	5104.00	2552.00	262856.00

For Note, **, †† & §, refer Note, **, †† & §, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2009-10:

			Income-tax	Surcharge	Sub-total of I.T. & S.C.	ADDL. S.C. E.C. S.H.E.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	33.00	3,399.00
For every	Rs. 1,000	..	300.00	30.00	330.00	6.60	3.30	339.90
For every	Rs. 100	..	30.00	3.00	33.00	0.66	0.33	33.99
For every	Rs. 10	..	3.00	0.30	3.30	0.07	0.03	3.40

TABLE K
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 2,25,000 & Rs. 3,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 10%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	1	0.02	0.01	1.03	70	7	0.14	0.07	7.21	400	40	0.80	0.40	41.20
20	2	0.04	0.02	2.06	80	8	0.16	0.08	8.24	500	50	1.00	0.50	51.50
30	3	0.06	0.03	3.09	90	9	0.18	0.09	9.27	600	60	1.20	0.60	61.80
40	4	0.08	0.04	4.12	100	10	0.20	0.10	10.30	700	70	1.40	0.70	72.10
50	5	0.10	0.05	5.15	200	20	0.40	0.20	20.60	800	80	1.60	0.80	82.40
60	6	0.12	0.06	6.18	300	30	0.60	0.30	30.90	900	90	1.80	0.90	92.70

† This table is applicable to an individual, being resident in India,
 who is of the age of 65 years or more at any time during the financial year
 ending on 31-3-2009.

225000	Nil	Nil	Nil	Nil	226000	100	2.00	1.00	103.00	227000	200	4.00	2.00	206.00
225100	10	0.20	0.10	10.30	226100	110	2.20	1.10	113.30	227100	210	4.20	2.10	216.30
225200	20	0.40	0.20	20.60	226200	120	2.40	1.20	123.60	227200	220	4.40	2.20	226.60
225300	30	0.60	0.30	30.90	226300	130	2.60	1.30	133.90	227300	230	4.60	2.30	236.90
225400	40	0.80	0.40	41.20	226400	140	2.80	1.40	144.20	227400	240	4.80	2.40	247.20
225500	50	1.00	0.50	51.50	226500	150	3.00	1.50	154.50	227500	250	5.00	2.50	257.50
225600	60	1.20	0.60	61.80	226600	160	3.20	1.60	164.80	227600	260	5.20	2.60	267.80
225700	70	1.40	0.70	72.10	226700	170	3.40	1.70	175.10	227700	270	5.40	2.70	278.10
225800	80	1.60	0.80	82.40	226800	180	3.60	1.80	185.40	227800	280	5.60	2.80	288.40
225900	90	1.80	0.90	92.70	226900	190	3.80	1.90	195.70	227900	290	5.80	2.90	298.70
226000	100	2.00	1.00	103.00	227000	200	4.00	2.00	206.00	228000	300	6.00	3.00	309.00

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

§ The relevant table for assessment year 2008-09 is given on pp. 246-248.

TABLE K — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
228000	300	6.00	3.00	309.00	240000	1500	30	15	1545	270000	4500	90	45	4635
228100	310	6.20	3.10	319.30	241000	1600	32	16	1648	271000	4600	92	46	4738
228200	320	6.40	3.20	329.60	242000	1700	34	17	1751	272000	4700	94	47	4841
228300	330	6.60	3.30	339.90	243000	1800	36	18	1854	273000	4800	96	48	4944
228400	340	6.80	3.40	350.20	244000	1900	38	19	1957	274000	4900	98	49	5047
228500	350	7.00	3.50	360.50	245000	2000	40	20	2060	275000	5000	100	50	5150
228600	360	7.20	3.60	370.80	246000	2100	42	21	2163	276000	5100	102	51	5253
228700	370	7.40	3.70	381.10	247000	2200	44	22	2266	277000	5200	104	52	5356
228800	380	7.60	3.80	391.40	248000	2300	46	23	2369	278000	5300	106	53	5459
228900	390	7.80	3.90	401.70	249000	2400	48	24	2472	279000	5400	108	54	5562
229000	400	8.00	4.00	412.00	250000	2500	50	25	2575	280000	5500	110	55	5665
229100	410	8.20	4.10	422.30	251000	2600	52	26	2678	281000	5600	112	56	5768
229200	420	8.40	4.20	432.60	252000	2700	54	27	2781	282000	5700	114	57	5871
229300	430	8.60	4.30	442.90	253000	2800	56	28	2884	283000	5800	116	58	5974
229400	440	8.80	4.40	453.20	254000	2900	58	29	2987	284000	5900	118	59	6077
229500	450	9.00	4.50	463.50	255000	3000	60	30	3090	285000	6000	120	60	6180
229600	460	9.20	4.60	473.80	256000	3100	62	31	3193	286000	6100	122	61	6283
229700	470	9.40	4.70	484.10	257000	3200	64	32	3296	287000	6200	124	62	6386
229800	480	9.60	4.80	494.40	258000	3300	66	33	3399	288000	6300	126	63	6489
229900	490	9.80	4.90	504.70	259000	3400	68	34	3502	289000	6400	128	64	6592
230000	500	10.00	5.00	515.00	260000	3500	70	35	3605	290000	6500	130	65	6695
231000	600	12.00	6.00	618.00	261000	3600	72	36	3708	291000	6600	132	66	6798
232000	700	14.00	7.00	721.00	262000	3700	74	37	3811	292000	6700	134	67	6901
233000	800	16.00	8.00	824.00	263000	3800	76	38	3914	293000	6800	136	68	7004
234000	900	18.00	9.00	927.00	264000	3900	78	39	4017	294000	6900	138	69	7107
235000	1000	20.00	10.00	1030.00	265000	4000	80	40	4120	295000	7000	140	70	7210
236000	1100	22.00	11.00	1133.00	266000	4100	82	41	4223	296000	7100	142	71	7313
237000	1200	24.00	12.00	1236.00	267000	4200	84	42	4326	297000	7200	144	72	7416
238000	1300	26.00	13.00	1339.00	268000	4300	86	43	4429	298000	7300	146	73	7519
239000	1400	28.00	14.00	1442.00	269000	4400	88	44	4532	299000	7400	148	74	7622
240000	1500	30.00	15.00	1545.00	270000	4500	90	45	4635	300000	7500	150	75	7725

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE L
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 3,00,000 & Rs. 5,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 20%

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	2	0.04	0.02	2.06	80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60
20	4	0.08	0.04	4.12	90	18	0.36	0.18	18.54	700	140	2.80	1.40	144.20
30	6	0.12	0.06	6.18	100	20	0.40	0.20	20.60	800	160	3.20	1.60	164.80
40	8	0.16	0.08	8.24	200	40	0.80	0.40	41.20	900	180	3.60	1.80	185.40
50	10	0.20	0.10	10.30	300	60	1.20	0.60	61.80	1000	200	4.00	2.00	206.00
60	12	0.24	0.12	12.36	400	80	1.60	0.80	82.40	2000	400	8.00	4.00	412.00
70	14	0.28	0.14	14.42	500	100	2.00	1.00	103.00	3000	600	12.00	6.00	618.00
80	16	0.32	0.16	16.48	600	120	2.40	1.20	123.60	4000	800	16.00	8.00	824.00

† This table is applicable to an individual, being resident in India,
 who is of the age of 65 years or more at any time during the financial year
 ending on 31-3-2009.

300000	7500	150	75	7725	309000	9300	186	93	9579	318000	11100	222	111	11433
301000	7700	154	77	7931	310000	9500	190	95	9785	319000	11300	226	113	11639
302000	7900	158	79	8137	311000	9700	194	97	9991	320000	11500	230	115	11845
303000	8100	162	81	8343	312000	9900	198	99	10197	321000	11700	234	117	12051
304000	8300	166	83	8549	313000	10100	202	101	10403	322000	11900	238	119	12257
305000	8500	170	85	8755	314000	10300	206	103	10609	323000	12100	242	121	12463
306000	8700	174	87	8961	315000	10500	210	105	10815	324000	12300	246	123	12669
307000	8900	178	89	9167	316000	10700	214	107	11021	325000	12500	250	125	12875
308000	9100	182	91	9373	317000	10900	218	109	11227	326000	12700	254	127	13081
309000	9300	186	93	9579	318000	11100	222	111	11433	327000	12900	258	129	13287

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

§ The relevant table for the assessment year 2008-09 is given on pp. 248-249.

TABLE L — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
327000	12900	258	129	13287	358000	19100	382	191	19673	389000	25300	506	253	26059
328000	13100	262	131	13493	359000	19300	386	193	19879	390000	25500	510	255	26265
329000	13300	266	133	13699	360000	19500	390	195	20085	391000	25700	514	257	26471
330000	13500	270	135	13905	361000	19700	394	197	20291	392000	25900	518	259	26677
331000	13700	274	137	14111	362000	19900	398	199	20497	393000	26100	522	261	26883
332000	13900	278	139	14317	363000	20100	402	201	20703	394000	26300	526	263	27089
333000	14100	282	141	14523	364000	20300	406	203	20909	395000	26500	530	265	27295
334000	14300	286	143	14729	365000	20500	410	205	21115	396000	26700	534	267	27501
335000	14500	290	145	14935	366000	20700	414	207	21321	397000	26900	538	269	27707
336000	14700	294	147	15141	367000	20900	418	209	21527	398000	27100	542	271	27913
337000	14900	298	149	15347	368000	21100	422	211	21733	399000	27300	546	273	28119
338000	15100	302	151	15553	369000	21300	426	213	21939	400000	27500	550	275	28325
339000	15300	306	153	15759	370000	21500	430	215	22145	405000	28500	570	285	29355
340000	15500	310	155	15965	371000	21700	434	217	22351	410000	29500	590	295	30385
341000	15700	314	157	16171	372000	21900	438	219	22557	415000	30500	610	305	31415
342000	15900	318	159	16377	373000	22100	442	221	22763	420000	31500	630	315	32445
343000	16100	322	161	16583	374000	22300	446	223	22969	425000	32500	650	325	33475
344000	16300	326	163	16789	375000	22500	450	225	23175	430000	33500	670	335	34505
345000	16500	330	165	16995	376000	22700	454	227	23381	435000	34500	690	345	35535
346000	16700	334	167	17201	377000	22900	458	229	23587	440000	35500	710	355	36565
347000	16900	338	169	17407	378000	23100	462	231	23793	445000	36500	730	365	37595
348000	17100	342	171	17613	379000	23300	466	233	23999	450000	37500	750	375	38625
349000	17300	346	173	17819	380000	23500	470	235	24205	455000	38500	770	385	39655
350000	17500	350	175	18025	381000	23700	474	237	24411	460000	39500	790	395	40685
351000	17700	354	177	18231	382000	23900	478	239	24617	465000	40500	810	405	41715
352000	17900	358	179	18437	383000	24100	482	241	24823	470000	41500	830	415	42745
353000	18100	362	181	18643	384000	24300	486	243	25029	475000	42500	850	425	43775
354000	18300	366	183	18849	385000	24500	490	245	25235	480000	43500	870	435	44805
355000	18500	370	185	19055	386000	24700	494	247	25441	485000	44500	890	445	45835
356000	18700	374	187	19261	387000	24900	498	249	25647	490000	45500	910	455	46865
357000	18900	378	189	19467	388000	25100	502	251	25853	495000	46500	930	465	47895
358000	19100	382	191	19673	389000	25300	506	253	26059	500000	47500	950	475	48925

† Refer † marked note on facing page.

§ Refer § marked note on facing page.

TABLE M
INCOME-TAX & ADDL. SURCHARGE**
FOR INDIVIDUAL, BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 5,00,000 & Rs. 10,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30% ††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T.; & (2) SEC. & H. EDU. CESS @ 1% of I.T.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs. P.
		EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.				EDU. CESS Rs. P.	S. & H. ED. CESS Rs. P.	
10	3	0.06	0.03	3.09	80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40
20	6	0.12	0.06	6.18	90	27	0.54	0.27	27.81	700	210	4.20	2.10	216.30
30	9	0.18	0.09	9.27	100	30	0.60	0.30	30.90	800	240	4.80	2.40	247.20
40	12	0.24	0.12	12.36	200	60	1.20	0.60	61.80	900	270	5.40	2.70	278.10
50	15	0.30	0.15	15.45	300	90	1.80	0.90	92.70	1000	300	6.00	3.00	309.00
60	18	0.36	0.18	18.54	400	120	2.40	1.20	123.60	2000	600	12.00	6.00	618.00
70	21	0.42	0.21	21.63	500	150	3.00	1.50	154.50	3000	900	18.00	9.00	927.00
80	24	0.48	0.24	24.72	600	180	3.60	1.80	185.40	4000	1200	24.00	12.00	1236.00

† This table is applicable to an individual, being resident in India,
 who is of the age of 65 years or more at any time during the financial year
 ending on 31-3-2009.

500000	47500	950	475	48925	509000	50200	1004	502	51706	518000	52900	1058	529	54487
501000	47800	956	478	49234	510000	50500	1010	505	52015	519000	53200	1064	532	54796
502000	48100	962	481	49543	511000	50800	1016	508	52324	520000	53500	1070	535	55105
503000	48400	968	484	49852	512000	51100	1022	511	52633	521000	53800	1076	538	55414
504000	48700	974	487	50161	513000	51400	1028	514	52942	522000	54100	1082	541	55723
505000	49000	980	490	50470	514000	51700	1034	517	53251	523000	54400	1088	544	56032
506000	49300	986	493	50779	515000	52000	1040	520	53560	524000	54700	1094	547	56341
507000	49600	992	496	51088	516000	52300	1046	523	53869	525000	55000	1100	550	56650
508000	49900	998	499	51397	517000	52600	1052	526	54178	530000	56500	1130	565	58195
509000	50200	1004	502	51706	518000	52900	1058	529	54487	535000	58000	1160	580	59740

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gains, refer pp. 161-164. Advance tax so computed is to be increased by addl. S.C. @ 2% of I.T. & @ 1% of I.T.

** Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

†† Surcharge on income-tax is payable where the **taxable income exceeds Rs. 10,00,000.**

§ The relevant table for the assessment year 2008-09 is given on pp. 248-249.

TABLE M — (Contd.)

Before you proceed to refer this table, please refer footnote marked ** & † on facing page.

Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.	Taxable Income Rs.	I.T. † Rs.	ADDL. S.C.		TOTAL Rs.
		EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.				EDU. CESS Rs.	S. & H. ED. CESS Rs.	
535000	58000	1160	580	59740	690000	104500	2090	1045	107635	845000	151000	3020	1510	155530
540000	59500	1190	595	61285	695000	106000	2120	1060	109180	850000	152500	3050	1525	157075
545000	61000	1220	610	62830	700000	107500	2150	1075	110725	855000	154000	3080	1540	158620
550000	62500	1250	625	64375	705000	109000	2180	1090	112270	860000	155500	3110	1555	160165
555000	64000	1280	640	65920	710000	110500	2210	1105	113815	865000	157000	3140	1570	161710
560000	65500	1310	655	67465	715000	112000	2240	1120	115360	870000	158500	3170	1585	163255
565000	67000	1340	670	69010	720000	113500	2270	1135	116905	875000	160000	3200	1600	164800
570000	68500	1370	685	70555	725000	115000	2300	1150	118450	880000	161500	3230	1615	166345
575000	70000	1400	700	72100	730000	116500	2330	1165	119995	885000	163000	3260	1630	167890
580000	71500	1430	715	73645	735000	118000	2360	1180	121540	890000	164500	3290	1645	169435
585000	73000	1460	730	75190	740000	119500	2390	1195	123085	895000	166000	3320	1660	170980
590000	74500	1490	745	76735	745000	121000	2420	1210	124630	900000	167500	3350	1675	172525
595000	76000	1520	760	78280	750000	122500	2450	1225	126175	905000	169000	3380	1690	174070
600000	77500	1550	775	79825	755000	124000	2480	1240	127720	910000	170500	3410	1705	175615
605000	79000	1580	790	81370	760000	125500	2510	1255	129265	915000	172000	3440	1720	177160
610000	80500	1610	805	82915	765000	127000	2540	1270	130810	920000	173500	3470	1735	178705
615000	82000	1640	820	84460	770000	128500	2570	1285	132355	925000	175000	3500	1750	180250
620000	83500	1670	835	86005	775000	130000	2600	1300	133900	930000	176500	3530	1765	181795
625000	85000	1700	850	87550	780000	131500	2630	1315	135445	935000	178000	3560	1780	183340
630000	86500	1730	865	89095	785000	133000	2660	1330	136990	940000	179500	3590	1795	184885
635000	88000	1760	880	90640	790000	134500	2690	1345	138535	945000	181000	3620	1810	186430
640000	89500	1790	895	92185	795000	136000	2720	1360	140080	950000	182500	3650	1825	187975
645000	91000	1820	910	93730	800000	137500	2750	1375	141625	955000	184000	3680	1840	189520
650000	92500	1850	925	95275	805000	139000	2780	1390	143170	960000	185500	3710	1855	191065
655000	94000	1880	940	96820	810000	140500	2810	1405	144715	965000	187000	3740	1870	192610
660000	95500	1910	955	98365	815000	142000	2840	1420	146260	970000	188500	3770	1885	194155
665000	97000	1940	970	99910	820000	143500	2870	1435	147805	975000	190000	3800	1900	195700
670000	98500	1970	985	101455	825000	145000	2900	1450	149350	980000	191500	3830	1915	197245
675000	100000	2000	1000	103000	830000	146500	2930	1465	150895	985000	193000	3860	1930	198790
680000	101500	2030	1015	104545	835000	148000	2960	1480	152440	990000	194500	3890	1945	200335
685000	103000	2060	1030	106090	840000	149500	2990	1495	153985	995000	196000	3920	1960	201880
690000	104500	2090	1045	107635	845000	151000	3020	1510	155530	1000000	197500	3950	1975	203425

† Refer † marked note on facing page.

Surcharge on income-tax is payable where the taxable income exceeds Rs. 10,00,000.

§ Refer § marked note on facing page.

TABLE N
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUALS BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,00,000 & Rs. 10,29,470

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
(2) Deduction of income-tax, S.C. & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE ON INCOME TAX: ON THE BASIS OF MARGINAL RELIEF††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC. & H. EDU. CESS @ 1% 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.		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.		Total of I.T., S.C. & ADDL. S.C. Rs. P
				EDU. CESS Rs.	S. & H. ED. CESS Rs. P						EDU. CESS Rs.	S. & H. ED. CESS Rs. P	
10	3	7	10	0.20	0.10	10.30	100	30	70	100	2.00	1.00	103.00
20	6	14	20	0.40	0.20	20.60	200	60	140	200	4.00	2.00	206.00
30	9	21	30	0.60	0.30	30.90	300	90	210	300	6.00	3.00	309.00
40	12	28	40	0.80	0.40	41.20	400	120	280	400	8.00	4.00	412.00
50	15	35	50	1.00	0.50	51.50	500	150	350	500	10.00	5.00	515.00
60	18	42	60	1.20	0.60	61.80	600	180	420	600	12.00	6.00	618.00
70	21	49	70	1.40	0.70	72.10	700	210	490	700	14.00	7.00	721.00
80	24	56	80	1.60	0.80	82.40	800	240	560	800	16.00	8.00	824.00
90	27	63	90	1.80	0.90	92.70	900	270	630	900	18.00	9.00	927.00
100	30	70	100	2.00	1.00	103.00	1000	300	700	1000	20.00	10.00	1030.00

† This table is applicable to an individual, being resident in India,
who is of age of 65 years or more at any time during the financial year
ending on 31-3-2009.

1000000	197500	Nil	197500	3950	1975	203425	1014000	201700	9800	211500	4230.00	2115.00	217845.00
1001000	197800	700	198500	3970	1985	204455	1016000	202300	11200	213500	4270.00	2135.00	219905.00
1002000	198100	1400	199500	3990	1995	205485	1018000	202900	12600	215500	4310.00	2155.00	221965.00
1003000	198400	2100	200500	4010	2005	206515	1020000	203500	14000	217500	4350.00	2175.00	224025.00
1004000	198700	2800	201500	4030	2015	207545	1022000	204100	15400	219500	4390.00	2195.00	226085.00
1006000	199300	4200	203500	4070	2035	209605	1024000	204700	16800	221500	4430.00	2215.00	228145.00
1008000	199900	5600	205500	4110	2055	211665	1026000	205300	18200	223500	4470.00	2235.00	230205.00
1010000	200500	7000	207500	4150	2075	213725	1028000	205900	19600	225500	4510.00	2255.00	232265.00
1012000	201100	8400	209500	4190	2095	215785	1029000	206200	20300	226500	4530.00	2265.00	233295.00
1014000	201700	9800	211500	4230	2115	217845	1029470	206341	20629	226970	4539.40	2269.70	233779.10

Note: Advance tax payable on taxable income/current income [as reduced by taxable long-term capital gains and short-term capital gains referred to in section 111A (Vide item 7 on page 161), if any] is to be computed with reference to above table. For advance tax payable on long-term capital gains and the said short-term capital gain, refer pp. 161-164. Advance tax so computed is to be increased by S.C. on I.T. & addl. S.C. @ 2% & @ 1% on I.T. & S.C.

**Advance tax is to be arrived at with reference to table given above, on taxable income/current income, that is gross total income as reduced by deductions under Chapter VI-A [Refer pp. 209-227]. For examples, refer pp. 293-297.

†† Surcharge at the rate of 10% on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income-tax subject to marginal relief provided in the Finance Act, 2008 [Vide proviso to Paragraph A of Part III of the First Schedule to the Finance Act, 2008]. The marginal relief operates upto taxable income between Rs. 10,00,010 & Rs. 10,29,470 [Refer table above].

§ The relevant table for the assessment year 2008-09 is given on pp. 250-251.

TABLE O
INCOME-TAX, SURCHARGE & ADDL. SURCHARGE**
FOR INDIVIDUALS BEING RESIDENT IN INDIA,
WHO IS OF THE AGE OF 65 YEARS OR MORE†

WHERE THE TAXABLE INCOME IS BETWEEN:

Rs. 10,29,480 & Rs. 11,00,000

ASSESSMENT YEAR 2009-10

Accounting period: Financial year ending 31-3-2009.

The table given hereunder may be referred for the purposes of:

- (1) "ADVANCE TAX" payable during the financial year ending on 31-3-2009, and
 (2) Deduction of income-tax, S.C. & addl. S.C. from "SALARIES" during the financial year ending on 31-3-2009.

SLAB RATE: INCOME-TAX @ 30%

SURCHARGE: 10% OF INCOME TAX††

ADDL. SURCHARGE: (1) EDU. CESS @ 2% of I.T. & S.C.; & (2) SEC & H. EDU. CESS @ 1% of I.T. & S.C.

Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs.	P.	Sub-total of I.T. & S.C. ††		ADDL. S.C.				Total of I.T., S.C. & ADDL. S.C.		Taxable Income Rs.	I.T. † Rs.	S.C. †† Rs.	P.	Sub-total of I.T. & S.C. ††		ADDL. S.C.				Total of I.T., S.C. & ADDL. S.C.	
						EDU. CESS	P.	S. & H. ED. CESS	P.									EDU. CESS	P.	S. & H. ED. CESS	P.		
10	3	0.30		3.30		0.07		0.03		3.40		300	90	9		99		1.98		0.99		101.97	
20	6	0.60		6.60		0.13		0.07		6.80		400	120	12		132		2.64		1.32		135.96	
30	9	0.90		9.90		0.20		0.10		10.20		500	150	15		165		3.30		1.65		169.95	
40	12	1.20		13.20		0.26		0.13		13.60		600	180	18		198		3.96		1.98		203.94	
50	15	1.50		16.50		0.33		0.17		17.00		700	210	21		231		4.62		2.31		237.93	
60	18	1.80		19.80		0.40		0.20		20.39		800	240	24		264		5.28		2.64		271.92	
70	21	2.10		23.10		0.46		0.23		23.79		900	270	27		297		5.94		2.97		305.91	
80	24	2.40		26.40		0.53		0.26		27.19		1000	300	30		330		6.60		3.30		339.90	
90	27	2.70		29.70		0.59		0.30		30.59		2000	600	60		660		13.20		6.60		679.80	
100	30	3.00		33.00		0.66		0.33		33.99		3000	900	90		990		19.80		9.90		1019.70	
200	60	6.00		66.00		1.32		0.66		67.98		4000	1200	120		1320		26.40		13.20		1359.60	

† This table is applicable to an individual, being resident in India,
 who is of age of 65 years or more at any time during the financial year
 ending on 31-3-2009.

1029480	206344	20634.40	226978.40	4539.57	2269.78	233787.75	1052000	213100	21310	234410	4688.20	2344.10	241442.30
1030000	206500	20650.00	227150.00	4543.00	2271.50	233964.50	1054000	213700	21370	235070	4701.40	2350.70	242122.10
1032000	207100	20710.00	227810.00	4556.20	2278.10	234644.30	1056000	214300	21430	235730	4714.60	2357.30	242801.90
1034000	207700	20770.00	228470.00	4569.40	2284.70	235324.10	1058000	214900	21490	236390	4727.80	2363.90	243481.70
1036000	208300	20830.00	229130.00	4582.60	2291.30	236003.90	1060000	215500	21550	237050	4741.00	2370.50	244161.50
1038000	208900	20890.00	229790.00	4595.80	2297.90	236683.70	1065000	217000	21700	238700	4774.00	2387.00	245861.00
1040000	209500	20950.00	230450.00	4609.00	2304.50	237363.50	1070000	218500	21850	240350	4807.00	2403.50	247560.50
1042000	210100	21010.00	231110.00	4622.20	2311.10	238043.30	1075000	220000	22000	242000	4840.00	2420.00	249260.00
1044000	210700	21070.00	231770.00	4635.40	2317.70	238723.10	1080000	221500	22150	243650	4873.00	2436.50	250959.50
1046000	211300	21130.00	232430.00	4648.60	2324.30	239402.90	1085000	223000	22300	245300	4906.00	2453.00	252659.00
1048000	211900	21190.00	233090.00	4661.80	2330.90	240082.70	1090000	224500	22450	246950	4939.00	2469.50	254358.50
1050000	212500	21250.00	233750.00	4675.00	2337.50	240762.50	1095000	226000	22600	248600	4972.00	2486.00	256058.00
1052000	213100	21310.00	234410.00	4688.20	2344.10	241442.30	1100000	227500	22750	250250	5005.00	2502.50	257757.50

For Note, **, †† & \$, refer Note, **, †† & \$, given on facing page.

Income-tax, surcharge and addl. surcharge payable over Rs. 11,00,000 taxable income for assessment year 2009-10:

				Income-tax		Surcharge		Sub-total of I.T. & S.C.		ADDL. S.C. E.C. S.H.E.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	33.00	3,399.00	
For every	Rs.	1,000	..	300.00		30.00		330.00		6.60	3.30	339.90	
For every	Rs.	100	..	30.00		3.00		33.00		0.66	0.33	33.99	
For every	Rs.	10	..	3.00		0.30		3.30		0.07	0.03	3.40	

IMPORTANT CIRCULARS ON DIRECT TAXES:**I. CIRCULARS REGARDING EXPLANATORY NOTES ON FINANCE AND OTHER AMENDING ACTS
ON PROVISIONS RELATING TO DIRECT TAXES**

						<i>Circular No.</i>	<i>Date</i>	<i>Refer</i>
1.	FINANCE ACTS:							
	Finance Act, 2007					3	12-3-2008	299 ITR (St.) 8.
	Finance Act, 2006					14	28-12-2006	288 ITR (St.) 9.
	Finance Act, 2005					3*	27-2-2006	281 ITR (St.) 222.
	Finance (No. 2) Act, 2004					5	15-7-2005	276 ITR (St.) 151.
	Finance Act, 2003†					7	5-9-2003	263 ITR (St.) 62.
2.	OTHER AMENDING ACTS:							
	Taxation Laws (Amendment) Act, 2006	..	..	..	..	1	27-4-07	290 ITR (St.) 73.
	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:**

<i>Financial year</i>	<i>Circular No.</i>	<i>Date</i>	<i>Refer</i>
1.	FROM SALARIES DURING THE FINANCIAL YEAR UNDER SECTION 192:		
2007-08	8	5-12-07	297 ITR (St.) 18.
2006-07	11	16-11-06	287 ITR (St.) 121.
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].		
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].		
E.	Deductors, at their option, allowed to use their digital signatures to authenticate the certificates of deduction of tax at source from salary, in Form No. 16 [Circular No. 2, dt. 21-5-07; 291 ITR (St.) 253].		

* For Explanatory notes on the provisions relating to Fringe Benefit Tax under Chapter XII-H (Sections 115W to 115WL), refer Circular No. 8, dt. 29-8-2005: 277 ITR (St.) 20]. For the gist of the Circular, refer pp. 203-211 of ITRR 2006-07 (68th Year of Publication).

† For ITR reference of Circulars on: (i) the Finance (No. 2) Act, 1971 to the Finance Act, 1995, refer page 297 of ITRR 1997-98 (59th Year of Publication); and (2) the Finance (No. 2) Act, 1996, the Finance Act, 1997, the Finance (No. 2) Act, 1998 & the Finance Act, 1999 to the Finance Act, 2002, refer page 322 of ITRR 2005-06 (67th 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).

**II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE
UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 (Contd.):**

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 respect of Deep Discount Bonds, tax is required to be deducted at source only at the time of redemption of such bonds, irrespective of whether the income from the bonds has been declared by the bond-holder on accrual basis from year to year or is declared only in the year of redemption. In a case where the bond-holder has declared the income from the said bonds on annual accrual basis during the term of the bond, he will be entitled to make an application u/s. 197 to AO to issue a certificate for no deduction of tax or deduction at a lower rate [Circular No. 4, dt. 13-5-04: 268 ITR (St.) 208].

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].

† Also refer, sub-item C of item 9 on page 328.

†† 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):
 - 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].

Provisions of section 194C would apply in respect of a contract for supply of any article or thing as per prescribed specifications only if it is a contract for work and not a contract for sale as per the principles in this regard laid down in para 7(vi) of Circular No. 681 [Refer item 2(c) on page 326] [Vide Circular No. 13, dt. 13-12-2006: 287 ITR (St.) 174].

- 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].
- Since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194C and not section 194-I will be applicable to the amounts paid as cooling charges by the customers of the cold storage [Vide Circular No. 1, dt. 10-1-08: 297 ITR (St.) 83].

- 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:

- (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.

* 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.):

- (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.
 - (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].
 - G. Consignee is required to issue TDS certificate in the cases of the truck/goods-carriage operators within the prescribed time [Vide rule 31 of I.T. Rules read with section 203] and in the favour of such truck/goods-carriage operators [Circular No. 6, dt. 23-6-06: 284 ITR (St.) 1].
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 subject 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].

* Also refer, sub-item V of item 9 on page 329.

§ It may be noted that, provisions of section 194-I will cover payment of rent made by an individual or a 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 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].
 - 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].
 - 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].
 - Since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194C and not section 194-I will be applicable to the amounts paid as cooling charges by the customers of the cold storage [Vide Circular No. 1, dt. 10-1-08: 297 ITR (St.) 83].
 - 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 194]*:
- 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 194] 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% [10%, *w.e.f. 1-6-2007*] u/s. 194] [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% [10%, *w.e.f. 1-6-2007*] u/s. 194] [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. 194] 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. 194] 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. 194] 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. 194] [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. 194] [Vide answer to question No. 27 of Circular No. 715: 215 ITR (St.) 17].

* *W.e.f. 13-7-2006*, provisions of section 194] are also applicable to payment of royalty or any sum referred to in section 28(va).

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 (Contd.):

- 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 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, dt. 24-4-98: 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 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].
- E. 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].
- F. 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].
- G. 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].
- H. Deduction of tax at source u/s. 195 from payments to non-residents [Circular Nos. 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; 7, dt. 23-10-07: 294 ITR (St.) 32 [This Circular is issued in supersession of Circular No. 790, dt. 20-4-2000: 243 ITR (St.) 58]; and 4, dt. 13-5-04: 268 ITR (St.) 208 (For gist of the circular, refer 2C on page 323).
- I. 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].
- J. 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 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].
- K. Clarification regarding section 197A read with Rule 29C [Circular No. 351, dt. 26-11-82: 140 ITR (St.) 20].
- L. 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].
- M. 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].

II. CIRCULARS ON DEDUCTION OF TAX AT SOURCE/COLLECTION AT SOURCE UNDER CHAPTER XVII OF THE INCOME-TAX ACT, 1961 (Contd.):

- N. 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].
- O. 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].
- P. 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].
- Q. It has been decided to withdraw challan forms with three counterfoils. Henceforth, challan forms will have four counterfoils [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].

- R. 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].
- S. 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].
- T. 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 322) 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].

Filing of returns of Tax Deduction at Source and Tax Collection at Source on Computer Media for deductions/collections upto 31-3-2005 [Circular No. 4, dt. 27-6-2005: 276 ITR (St.) 53].

- U. 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].
- V. 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

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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.
3. Harvesting and transportation expenses, incurred by the co-operative sugar mills for procuring sugarcane from farmers, who are members of such co-operative sugar mills and who are bound under an agreement to supply the sugarcane exclusively to the concerned sugar mill, are allowable in the computation of the income of such co-operative sugar mills	6 Dt. 11-10-07	294 ITR (St.) 11.
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) [Section 10(3) omitted w.e.f. 1-4-2003]	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. 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.
8. 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.
9. 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.
10. Where a unit in the Export Processing Zones (EPZs)/100% Export Oriented Units (EOUs)/Software Technology Parks (STPs) develops software <i>sur place</i> , 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.
11. Certain clarification regarding tax holiday u/s. 10B to export oriented undertaking	1 Dt. 6-01-05	272 ITR (St.) 6.
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.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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 [<i>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 82</i>] ..	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 the then 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. 16-01-74 150 Dt. 19-11-74	94 ITR (St.) 17. 98 ITR (St.) 17.
4. 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 Nos. 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 [<i>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)</i>] ..	603 Dt. 6-06-91	190 ITR (St.) 6.
5. 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.
6. 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. 5 on page 334]	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. 9-12-74	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.
6. Accrued interest on NSC VI/VIII Issues qualifies for rebate u/s. 88 [Vide para 6(6)(b) on page 128 of the circular] <i>In my opinion, said accrued interest will also qualify for deduction u/s. 80C</i>	6 Dt. 6-12-04	271 ITR (St.) 97.
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.

* For assessment years 2002-03 to 2005-06/2008-09 and onwards, perquisite in respect of free meals/free food and non-alcoholic beverages will be valued under the then rule 3(7)(iii)/New rule 3(7)(iii) [For details, refer sub-item (e) of item (ix) on page 84].

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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 <i>vice versa</i> , 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 souvenirs & other types of advertisements. Claims in respect of expenditure on advertisement in souvenirs 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 souvenir 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 107] 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 107] 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.
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.

† 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 70.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

Gist of circular		Circular No.	Refer
3.	Development allowance u/s. 33A: Instruction regarding creation of reserve	325 Dt. 3-02-82	135 ITR (St.) 5.
4.	Gratuity: Provision towards service gratuity to employees — Allowance regarding	146 Dt. 26-09-74	101 ITR (St.) 46.
5.	Entertainment expenditure u/s. 37(2)††: 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 <i>Explanation</i> 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.
6.	Disallowance of expenditure in respect of which payment is made otherwise than by a crossed cheque or DD — Section 40A(3):		
A.	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.
B.	Clarification regarding <i>the then</i> 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.
C.	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.
D.	The Board has clarified that “the produce of animal husbandary” used under rule 6DD(f)(ii)/6DD(e)(ii) would include “livestock and meat” and in a case where payment exceeding Rs. 20,000 is made to a producer (other than a trader, broker and other middleman) of the products of animal husbandry (including livestock, meat, hides and skins) otherwise than by a crossed cheque drawn on a bank or crossed bank draft for the purchase of such produce, no disallowance should be attracted u/s. 40A(3) read with rule 6DD ..	4 Dt. 29-03-06	282 ITR (St.) 5.
E.	Producer of livestock and meat means a person who buys animals from the farmers, slaughters them and then sells the raw meat carcasses to the meat processing factories or to the traders/retail outlets. The benefit of rule 6DD(f)(ii)/6DD(e)(ii) is subject to conditions that: (a) payee makes a declaration that he is a producer of meat; (b) the payment otherwise than by an account payee cheque/draft, was made on his insistence; and (c) veterinary doctor certifies that the person is a producer of meat and that slaughtering was done under his supervision	8 Dt. 06-10-06	286 ITR (St.) 35.
F.	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.

††Section 37(2) omitted w.e.f. 1-4-1998 (assessment year 1998-99 and onwards).

†For gist of Circular No. 644, dt. 15-3-93 in relation to assessment years 1993-94 to 1995-96, refer item F. 6.B on page 327 of ITRR 2006-07 (68th Year of Publication). For gist of Circular No. 247, dt. 21-10-78, issued u/s. 37(2A) and applicable upto assessment year 1992-93, refer item F. 6. C on page 327 of ITRR 2006-07 (68th Year of Publication).

* 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) to (m), w.e.f. 1-12-95/25-7-95; new clauses (i) to (l), w.e.f. assessment year 2008-09, in Rule 6DD, no disallowance u/s. 40A(3) shall be made in the circumstances specified in the said clauses. For the text of the clauses (i) to (l), refer item (iii) on page 129.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
7. 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)		
F. Professional tax paid by a person carrying on business or profession is allowable as revenue expenditure u/s. 37(1).. ..	671 Dt. 27-10-93	204 ITR (St.) 156.
G. Treatment of subsidy granted by the State Government to producers for the production of feature films in regional language	16 Dt. 18-09-69 541 Dt. 25-07-89 544 Dt. 15-09-89	1970 ITL Page LXXXIII. 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 ..		
I. Scientific research expenditure—Procedure for dealing with pending as well as fresh applications for approval u/s. 35 (1)(ii) & 35 (1)(iii)	154 Dt. 5-12-74	98 ITR (St.) 38.
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	778 Dt. 20-08-99	239 ITR (St.) 55.
	651 Dt. 11-06-93	202 ITR (St.) 54.
8. 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 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 Clarification regarding deduction of interest u/s. 43B in view of insertion of <i>Explanations</i> 3C & 3D by the Finance Act, 2006 ..	496 Dt. 25-09-87 674 Dt. 29-12-93 7 Dt. 17-07-06	169 ITR (St.) 53. 205 ITR (St.) 119. 284 ITR (St.) 26.
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 arathias" 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.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
C. 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.
D. Section 44D—Restrictions placed by section 44D will apply for the <i>entire</i> previous year relevant to assessment year 1977-78 and onwards.. .. .	282 Dt. 22-09-80	127 ITR (St.) 4.
E. 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.
F. 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.
G. Special provisions relating to certain companies — Book profit — Computation of — Effect of <i>Explanation</i> (iii) to section 115J ..	680 Dt. 21-02-94	206 ITR (St.) 297.
H. Provisions governing transfer price in an international transaction — Regarding [Sections 92 and 92A to 92F*]	12 Dt. 23-08-01	251 ITR (St.) 15.
I. Taxation of IT enabled business process outsourcing units in India [Circular No. 1, dt. 2-1-04: 265 ITR (St.) 23 withdrawn with immediate effect by this Circular]	5 Dt. 28-09-04	270 ITR (St.) 31.
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 (<i>including cost of land</i>) 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 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 [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.

* 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.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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. 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.
C. 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 138	704 Dt. 28-04-95	213 ITR (St.) 7.
D. 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.
E. 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.
F. 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.
G. The Board wishes to emphasise that it is possible for a tax payer to have two portfolios, i.e., 'an investment portfolio' comprising of securities which are to be treated as 'capital assets' and 'a trading portfolio' comprising of stock-in-trade which are to be treated 'as trading assets'. Where an assessee has two portfolios, the assessee may have income under both heads i.e., capital gains (in respect of capital assets) as well as business income (in respect of trading assets)	4 Dt. 15-06-07	291 ITR (St.) 384.
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.

* The lending & borrowing of securities under the new scheme notified by SEBI vide Circular No. MRD/DoP/SE/Dep/Cir-14/2007, dt. 20-12-2007, is in accordance with the overall framework of the Securities Lending Scheme, 1997 and the provisions of section 47(xv) will be applicable in respect of the transactions under the new Scheme. Such transactions are also not liable to securities transaction tax [Vide Circular No. 2, dt. 22-2-2008: 298 ITR (St.) 241].

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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, <i>by a person</i> or his legal heir, from the Central Government/State Government/Local Authority/Public Sector Undertaking, <i>consequent upon injury</i> 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 (31) on page 123	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 sub-items (B) & (C) of item (31) on pp. 123-124.. ..	594 Dt. 27-02-91 677 Dt. 28-01-94	188 ITR (St.) 105. 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 or 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.
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.

* Clarification regarding taxability of income relating to Deep Discount Bonds [Vide Letter F. No. 225/45/96-ITA. II, dt. 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]. For gist of this circular, refer 2.C on page 323.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
	(c) Accrued interest on NSC VI/VIII Issues also eligible for rebate u/s. 88—Vide Para 6(6)(b) on page 128 of the circular. <i>In my opinion, said accrued interest will also qualify for deduction u/s. 80C</i> ..	6 Dt. 6-12-04	271 ITR (St.) 97.
	(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 (<i>Applicable upto assessment year 1998-99</i>):	It is clarified that the deduction u/s. 80DD is statutory in nature. Therefore, as long as the conditions mentioned in the section are fulfilled, 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 on page 36 of the Circular]	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 2 Dt. 12-01-05	240 ITR (St.) 182. 272 ITR (St.) 23.
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.
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 341]	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.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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 [<i>Circular No. 693, dt. 17-11-94 at (e) above modified</i>]	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.
(h)	No penalty shall be levied or interest shall be charged in respect of fresh demand raised consequent to the enactment of the Taxation Laws (Amendment) Act, 2005, on account of variation in the returned/assessed income attributable to profits on sale of DEPB credits or DFRC	2 Dt. 17-01-2006	280 ITR (St.) 39.
(i)	Benefit of 1st proviso to section 80HHC(3) cannot be denied to an assessee claiming refund of the duty drawback under the Customs and Central Excise Duties Drawback Rules, 1995 ..	5 Dt. 15-05-06	283 ITR (St.) 27.
J.	Under section 80HHE:		
	<i>Explanation</i> 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.
K.	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 2/3 of the circular..	*793 Dt. 23-06-2000 †10 Dt. 16-12-2005	244 ITR (St.) 103. 280 ITR (St.) 1.
(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.

* Circular No. 793, dt. 23-06-2000, is applicable in relation to assessment year 2001-02 and earlier years.

† Circular No. 10, dt. 16-12-2005, is applicable in relation to assessment year 2002-03 and subsequent years.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
	(4) Effluent treatment and conveyance system is a part of “water treatment” and would accordingly, qualify as an infrastructure facility for the purposes of tax benefit u/s. 80-IA, subject to fulfillment of other conditions laid down in the said section ..	1 Dt. 12-01-2006	280 ITR (St.) 33.
L.	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.
M.	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.
N.	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 on page 183 of the circular]	528 Dt. 16-12-88	176 ITR (St.) 154.
	(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.
O.	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.
P.	Under section 80O: (a) 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.
	(b) 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.
Q.	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.
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 80HBB, 80HBC & 80-O, 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 & Bhutan are, however, excluded [For section 80HBB, see also sub-item ‘H’ on page 339]	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.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
J. MISCELLANEOUS:			
A. Firms:			
1.	<i>In relation to assessment year 1993-94:</i> 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 to have been filed within the specified time limit. This clarification also applies to the returns under other direct tax enactments. The above clarification has been issued in view of section 10 of the General Clauses Act, 1897	639 Dt. 13-11-92	199 ITR (St.) 1.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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 of coffee would not be required to file his return of income, if the aggregate of 25% of his income from growing & curing of coffee and income under all other sources, is equal to or less than the exemption limit prescribed for individuals in the First Schedule to the Finance Act of the relevant year. In the case of an individual deriving income from growing, curing, roasting and grounding of coffee with or without mixing chicory or other flavouring ingredients, would not be required to file the return of income if the aggregate of 40% of his income from growing, curing, roasting and grounding of coffee with or without mixing chicory or other flavouring ingredients and income under all other sources, is equal to or less than the exemption limit prescribed in the First Schedule to the Finance Act of the relevant year ..	10 Dt. 16-10-06	286 ITR (St.) 57.
[For earlier clarification issued on filing of return of income by coffee growers, being individuals, refer gist of Circular No. 10, dt. 24-12-03 on page 336 of ITRR 2006-07]		
4. It will not be mandatory for agents of non-residents, within the meaning of section 160(1)(a), to electronically furnish the returns of non-residents in Form No. 1 for assessment year 2006-07 ..	12 Dt. 27-11-06	287 ITR (St.) 120.
5. New return forms for assessment year 2006-07 — Matters connected thereto	9 Dt. 10-10-06	286 ITR (St.) 53.
6. New return forms for assessment year 2007-08 — Matters connected thereto	5 Dt. 26-07-07	292 ITR (St.) 61.
7. The Board has directed the income-tax authorities to accept, upto 31-5-2007, the return of income/fringe benefits for assessment year 2007-08 in a paper form in case of companies and firms which are liable to file the return electronically, subject to conditions specified in Para 3 of the Circular	3 Dt. 25-05-07	291 ITR (St.) 255.
8. Assessment of political parties—Regarding filing of returns ..	412 Dt. 2-03-85	152 ITR (St.) 202.
9. 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.
10. The Board has directed that the assessments where the proceedings have become final before 1-4-2001 should not be reopened 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.
11. 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 assessee 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.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
D. Appeals:			
	Giving of appeal effects, etc. promptly	209 Dt. 11-01-77	108 ITR (St.) 1.
E. Rectification:			
1.	<i>Prima-facie</i> adjustments made u/s. 143(1)(a)—Scope of section 154 & disallowance u/s. 43B—For gist of these clarifications, refer note 4 on page 127 of this ITRR	601 Dt. 4-06-91	190 ITR (St.) 4.
2.	The sums disallowed as <i>prima-facie</i> 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 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	581 Dt. 28-09-90 669 Dt. 25-10-93	186 ITR (St.) 2. 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.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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.
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* & Board's order dt. 26-6-2006*	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 (<i>Rs. 20,000 w.e.f. 1-4-1989</i>) 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		

* 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 191 of ITRR 2006-07. The said orders on the subject stand superseded by order dt. 26-6-2006. For gist of Board's order dt. 26-6-2006, refer pp. 190-191.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

	<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
	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.
(f)	A non-resident assessee engaged in the business of shipping of carriage 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	90 ITR (St.) 24.
		172 Dt. 8-07-75	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	120 ITR (St.) 7.
		265 Dt. 11-04-80	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	99 ITR (St.) 15.
		186 Dt. 23-12-75	102 ITR (St.) 83.

III. CIRCULARS ON PROVISIONS RELATING TO THE INCOME-TAX ACT, 1961 [Contd.]:

<i>Gist of circular</i>	<i>Circular No.</i>	<i>Refer</i>
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:

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.

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 & Circular No. 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.

Miscellaneous:

1. A. Instructions regarding scope of <i>Explanation</i> 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. 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 153D 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, jewellery¹ 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 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

1. 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 assessee, 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 assessee 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.

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 statement 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)²].

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)].

Assessee 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 153D^{2a}]:

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 12-7-2008, the return for assessment years 2003-04 to 2008-09 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, even though in respect of some assessment years, assessments might have

2. Section 292C provides that the books of account, other documents, money, bullion, jewellery or other valuable article or thing found in the possession or control of any person in the course of a search u/s. 132 will be presumed to belong to such person. It further provides that it will be presumed that the contents of such books of account and other documents are true; and that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested. [For the amendments made in section 292C by the Finance Act, 2008, refer para 9.4 on page 45].

2a. For the notes on amendments made in sections 153A, 153B, 153C & 153D by the Finance Act, 2008, refer para 7.8 on page 43.

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 initiation of search u/s. 132 or requisition shall not abate [Vide para 65.5 of Circular No. 7, dt. 5-9-2003: 263 ITR (St.) 62-107]. The AO will assess or reassess³ 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 21 months⁴ 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) read with 2nd proviso to section 153B(1)].

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 21 months⁴ from the end of the financial year in which action u/s. 132 or 132A was taken [Section 153B(1)(b) read with 2nd proviso to section 153B(1)]. 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.

In case of any other person referred to in section 153C, time limit for completion of assessment will be either the time prescribed in section 153B(1)(a) or 153B(1)(b) [i.e., 21 months] or 9 months⁵ from the end of the financial year in which books of account/documents/assets seized/requisitioned are handed over u/s. 153C to the AO having jurisdiction over such other person, whichever is later [1st and 2nd proviso to section 153B(1)].

Under *Explanation* to section 153B(1)⁶, 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);
- (e) w.e.f. 1-10-2004, the period commencing from the date on which an application is made before Authority for Advance Rulings u/s. 245Q(1) and ending with the date on which —
 - (1) the order rejecting the application is received by the Commissioner u/s. 245R(3), or
 - (2) the advance ruling pronounced by AAR is received by the Commissioner u/s. 245R(7).

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 money, 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,

3. Section 153D, w.e.f. 1-6-2007, provides that no order of assessment or reassessment shall be passed by an AO below the rank of Joint Commissioner except with the previous approval of the Joint Commissioner. Such provision is applicable to : (a) order of assessment or reassessment passed u/s. 153A(1)(b) in respect of each assessment year falling within 5 assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted u/s. 132 or requisition is made u/s. 132A; or (b) order of assessment passed u/s. 153B(1)(b) in respect of the assessment year relevant to the previous year in which search is conducted u/s. 132 or requisition is made u/s. 132A. The provisions of section 153D shall be applicable in the case of a person referred to in section 153A and also in case of other person referred to in section 153C.

4. In the case where the last of the authorisations for search u/s. 132 or for requisition u/s. 132A was executed during the financial year ending on 31-3-2004, the time limit for completion of assessment is 2 years, as against 21 months [Section 153B(1)(a)/(b)].

5. In case where the last of the authorisations for search u/s. 132 or for requisition u/s. 132A was executed during the financial year ending on 31-3-2004, the time limit for completion of assessment or reassessment is 2 years (as against 21 months) or 1 year (as against 9 months) from the end of the financial year in which books of account/documents/assets seized or requisitioned are handed over u/s. 153C to the AO having jurisdiction over such other person, whichever is later [1st proviso to section 153B(1)].

6. For the notes on amendment of *Explanation* to section 153B(1) by the Finance Act, 2008, refer para 7.8 on page 43.

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 [Section 153C(1)]. Where assessment is to be made in any other person's case u/s. 153C, the pending assessment or reassessment as on the date of receiving the books of account/documents/assets seized/requisitioned by the AO, having jurisdiction over such other person, will abate [Proviso to section 153C(1)]. The AO having jurisdiction over such other person, has been empowered to issue notices for assessment purposes u/s. 153A, if they have not already been issued [Section 153C(2)].

2.4 Miscellaneous:

The returns filed u/s. 153A attracts the provisions of sections 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 188 and for interest u/s. 234B, refer Note (1) & (3) on page 289].

3. Rights and duties of assesseees in search cases:

3.1 The Central Board of Direct Taxes has issued the following Charter of Rights and Duties of assesseees 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/*beyond 30 days from the date of order of assessment u/s. 153A.*

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 u/s. 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.

TAX SAVINGS PLAN

(Under the existing Small Savings Schemes in force as on 1st March, 2008)

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 gross total income u/s. 80C 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 [Sec. 80C(2)(v) read with Sec. 80C(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 item (i) on page 210.
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†.	No deduction under Sec. 80L as said section is omitted.	Yes (upto aggregate Rs. 1,00,000). Refer item (i) on page 210.
4. Post Office Time Deposit Rules, 1981	Minimum Rs. 200 (without limit). Account can be opened by an individual.	@ 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.	No deduction under Sec. 80L as said section is omitted.	No No No Yes (upto aggregate of Rs. 1,00,000). Refer Para 5.1 on page 39.
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. 1,500. Maximum Rs. 4,50,000 in a single account & Rs. 9,00,000 in a joint account.	8% p.a. payable monthly i.e., Rs. 80 will be paid every month on deposit of Rs. 12,000.**	Do	No
7. Senior Citizens Savings Scheme Rules, 2004	Minimum deposit Rs. 1,000 & its multiple. Maximum Rs. 15 lakhs. Person, above 60 years & retired above 55 years, can invest.	Interest @ 9% p.a. payable quarterly.	Do	Yes (upto aggregate of Rs. 1,00,000). Refer Para 5.1 on page 39.

* 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. For accrued interest on NSC VIII issue, refer Table on page 229.

†† Life risk covered upto an account of the denomination of Rs. 50 per month, subject to conditions.

** For the deposits made in new accounts opened on or after 8-12-2007, bonus equal to 5% of the amount deposited will be paid on withdrawal.

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. Upto assessment year 2005-06, 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.

CHART FOR DEDUCTION OF TAX AT SOURCE**[In respect of payments to resident assessee during the Financial year 2008-09]**

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	PRESCRIBED FORM & TIME LIMIT FOR FURNISHING/ISSUE OF STATEMENT OF TAX DEDUCTED	TDS CERTIFICATE	
					Prescribed Form No.	Time limit for issue of certificate
1	2	3	4	5	6	7
192*: Salary	Monthly at the time of payment where estimated taxable salary p.m. exceeds Rs. 15,000 (Sp. woman)/Rs. 18,750 (Sr. Citizen)/Rs. 12,500 (Others)	At the rates prescribed in Part III of the First Schedule to the Finance Act & salary tables on pp. 280-283	Within 1 week from last day of the month in which the deduction is made [Refer note 1]	Quarterly statement of deduction of tax u/s. 200(3) in Form No. 24Q [in respect of tax deducted u/s. 192(1)/(1A)]; and Form No. 26Q [in respect of tax deducted u/s. 193, 194, 194A, 194B, 194BB, 194C, 194D, 194EE, 194F, 194G, 194H, 194-I, 194J & 194LA], is to be delivered by the person deducting tax under Chapter XVII-B. Said quarterly statement is to be delivered, to the Director General of Income-tax (Systems) [DGIS] or the person authorised by the DGIS, on or before 15-7-2008, 15-10-2008, 15-1-2009 & 15-6-2009, in respect of the quarter ending on 30-6-2008, 30-9-2008, 31-12-2008 & 31-3-2009, respectively [Refer note 10].	Form No. 16 or 16AA, as the case may be [Can be issued on own stationery Refer note 5]	30-4-2009
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 169 [Refer note 4]	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 2]		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 194 [Refer note 3]	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. 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. 5000†† [Refer note 4]	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. 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*: Winning 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. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.
194BB*: Winning 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. 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 amount of sum credited or paid exceeds Rs. 20,000‡‡	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. 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 355.

* Read with rules 30, 31 & 31A of the Income-tax Rules, 1962.

\$ Tax is not required to be deducted at source on any interest payable on any security of the Central/State Government. However, interest exceeding Rs. 10,000 payable on 8% Savings (Taxable) Bonds, 2003 is subject to deduction of tax at source. Also refer item (2) on page 33.

† Refer † marked footnote on page 355.

\$ 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 355.

†† Tax is also required to be deducted at source on payment/credit of income by way of interest exceeding: (1) Rs. 10,000 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) Rs. 5,000 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 said limit of Rs. 10,000/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. Tax is also required to be deducted at source on interest payable exceeding Rs. 10,000 on any deposit with post office under any notified scheme.

‡‡ If the aggregate amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds Rs. 50,000, tax deduction @ source is also 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.

CHART FOR DEDUCTION OF TAX AT SOURCE—(Contd.)
[In respect of payments to resident assessee during the Financial year 2008-09]

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	PRESCRIBED FORM & TIME LIMIT FOR FURNISHING/ISSUE OF STATEMENT OF TAX DEDUCTED	TDS CERTIFICATE	
					Prescribed Form No.	Time limit for issue of certificate
1	2	3	4	5	6	7
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]	Quarterly statement of deduction of tax u/s. 200(3) in Form No. 24Q [In respect of tax deducted u/s. 192(1)/(1A)]; and Form No. 26Q [In respect of tax deducted u/s. 193, 194, 194A, 194B, 194BB, 194C, 194D, 194EE, 194F, 194G, 194H, 194-I, 194J & 194LA], is to be delivered by the person deducting tax under Chapter XVII-B. Said quarterly statement is to be delivered, to the Director General of Income-tax (Systems) [DGIS] or the person authorised by the DGIS, on or before 15-7-2008, 15-10-2008, 15-1-2009 & 15-6-2009, in respect of the quarter ending on 30-6-2008, 30-9-2008, 31-12-2008 & 31-3-2009, respectively [Refer note 10].	Form No. 16A [Can be issued on own stationery]	30-4-2009 [Refer note 1 & 2].
194EE*: Payments out of deposits under National Savings Scheme ref. to in sec. 80CCA & not in 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]	At the rate of 20% as I.T. + S.C. & Addl. S.C. [†]	On the day of deduction itself		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 in 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. 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. 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 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 1 & 2]		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 or paid during the financial year exceeds Rs. 1,20,000	At the rate specified in footnote ^{††}	Within 1 week from the last day of the month in which deduction is made [Refer note 2]		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].
194J*: (1) Fees for professional services or technical services; or (2) royalty; or (3) any sum ref. to in sec. 28(va) [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 any of the case	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. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which credit/payment [Refer note 2].
194LA*: Payment of compensation/ enhanced compn. on acquisition of land (other than agricultural land)/building	At the time of payment in cash/cheque/draft where the aggregate payment during the financial year exceeds Rs. 1,00,000	At the rate of 10% as I.T. + S.C. & Addl. S.C. [†]	On the day of deduction itself		Form No. 16A [Can be issued on own stationery]	Within 1 month from the end of the month during which payment is made.

For notes, refer facing page.

* Read with rules 30, 31 & 31A of the Income-tax Rules, 1962.

†† Specified rates are: (1) for the use of any machinery or plant or equipment, at the rate of 10% as I.T. + S.C. & Addl. S.C. †; & (2) for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings, at the rate of (a) 15% as I.T. + S.C. & Addl. S.C. † where the payee is an individual or a HUF; and (b) 20% as I.T. + S.C. & Addl. S.C. † where the payee is a person other than an individual or a HUF.

† & **, refer † & ** marked footnote on facing page.

- Notes: 1. The Assessing Officer may permit any person to pay tax deducted from income by way of—
- salary, quarterly on 15th June, 15th September, 15th December & 15th March; and
 - 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 I.T. Rules].

- Where the income referred to in sections 193, 194A, 194C, 194D, 194G, 194H, 194-I & 194J is credited by a person to the account of the payee as on the date up to 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 rule 31(3) of I.T. Rules].
- 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. 15G¹ [Refer section 197A(1) read with rule 29C(1) of the I.T. Rules].
- 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 person furnishes to the payer a declaration in writing in duplicate in the prescribed Form No. 15G¹ [Refer section 197A(1A) read with the rule 29C(1) of the I.T. Rules].
- 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. 12BA² (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].
- 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)].
- For failure to deduct correct tax @ source on due dates, interest u/s. 201(1A) is leviable [Refer Interest Chart on page 193]. Similarly, penalty is also leviable u/s. 271C, 272A(2)(c) & 272A(2)(g) [Refer Penalty Chart on pp. 195-196].
- 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].
- Section 206(2) provides that a person responsible for TDS under Chapter XVII-B desires to file [principal officer in the case of every person being a company and prescribed person in the case of every office of Government 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 T of item 9 on page 329 for Circular Nos. 797 & 8.
- Every branch of a banking company, which is required to make a quarterly return u/s. 206A(1) in respect of interest on time deposits without deduction of tax at source, shall keep and maintain the particulars of such time deposits in Form No. 26QA [Vide rule 31AC(1) of I.T. Rules]. Where such branch is maintaining daily accounts on computer media, shall keep and maintain the particulars in Form No. 26QA on computer readable media [Vide rule 31AC(2) of I.T. Rules]. The quarterly return to be furnished by a banking company u/s. 206A(1) in respect of time deposits shall be in Form No. 26QAA [Vide rule 31ACA(1) of I.T. Rules]. The quarterly return referred to in rule 31ACA(1) shall be furnished to the Director General of Income-tax (Investigation), New Delhi [DGI(I), ND] or the person authorised by DGI(I), ND, on or before 31st July, 31st October, 31st January or 30th June following the respective quarter of the financial year [Vide rule 31ACA(2) of I.T. Rules]. The quarterly return comprising Part A & Part B of Form No. 26QAA shall be furnished on computer readable media being a CD-Rom (650MB or higher capacity) or Digital Video Disc (DVD), along with Part A of such Form on paper [Vide rule 31ACA(3) of I.T. Rules]. For the purposes of rule 31AC and 31ACA, "time deposits" means deposits (excluding recurring deposits) repayable on the expiry of fixed periods [Vide Explanation to Rule 31ACA of I.T. Rules].

FOR THE NOTES ON COLLECTION OF TAX AT SOURCE U/S. 206C, REFER PAGE 359.

- 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].
- Form No. 12BA should accompany the return of income of the employee.

† 1. Rate of surcharge on income-tax:

- 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. 10,00,000;
- in the case of artificial juridical person referred to in section 2(31)(vii), the rate of S.C. is @ 10% of I.T.;
- in the case of firm and domestic company, 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. 1,00,00,000;
- in the case of company other than domestic company, the rate of S.C. is @ 2.5% 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. 1,00,00,000.

- Rate of additional surcharge (i.e., Education Cess & Sec. and High. Edu. 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) Education Cess calculated at the rate of 2% of such I.T. and S.C., if any [Refer section 2(11) of the Finance Act, 2008]; & (ii) Secondary and Higher Education Cess calculated at the rate of 1% of such I.T. & S.C., if any [Refer section 2(12) of the Finance Act, 2008].

** In the case of an Individual/HUF/[w.e.f. 1-6-2008, an association of persons or a body of individuals, whether incorporated or not, other than those falling under any of the clauses (a) to (j) of section 194C(1)], 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(1) or 194C(2) or 194H or 194-I or 194J(1), as the case may be. It may be noted that, provisions of section 194C(1)/194J(1) will not apply in the circumstances as explained, where the payments to contractor/ payment of fees for professional services, is for personal purposes of such individual or any member of HUF.

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962:
[In respect of resident assessees in relation to Financial year 2008-09]

	<i>Subject</i>	<i>Prescribed Form No.</i>	<i>Refer I.T. Rules</i>
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(aa) 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 u/s. 80G(5)(vi) [in triplicate]	10G	11AA(1)
(e)	Application for approval u/s. 10(23AAA) [in triplicate]	9	16C(3)
(f)	Application for approval u/s. 10(23C)(vi)/(via) [in quadruplicate]	56D	2CA(2)
(g)	The report of audit of the accounts of a fund/trust/institution/university/educational institution/hospital/medical institution which is required to be furnished under the 10th proviso to section 10(23C)	10BB	16CC
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 in the rule 26B(2) shall be annexed to the statement referred to in rule 26B(1)	—	26B(2)
(c)	Quarterly statement of deduction of tax u/s. 200(3), made by an employer u/s. 192(1)/(1A), to be delivered to the Director General of Income-tax (Systems) [DGIS] or the person authorised by the DGIS	24Q	31A(1)(i)
(d)	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)
(e)	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)
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]	3AE	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. 80-I(7) or 80-IA(7) [Other than u/s. 80-IB(7A), 80-IB(7B) & 80-IB(11B)] or 80-IC	10CCB	18BBB(1)
7.	u/s. 80JAA(2)(b)	10DA	19AB
8.	u/s. 115VW(ii) [in respect of business of operating qualifying ships]	66	11T
(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. 80-IB(7A)	10CCBA	18DB(2)
6.	u/s. 80-IB(7B)	10CCBB	18DC(3)
7.	u/s. 80-IB(11B)	10CCBC	18DD
8.	u/s. 80-ID(3)(iv)	10CCBBA	18DE(3)
9.	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 an 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

1. Form No. 12BA should accompany the return of income of the employee.

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 (Contd.):

	<i>Subject</i>	<i>Prescribed Form No.</i>	<i>Refer I.T. Rules</i>
	(f) 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)
	(g) A person carrying on medical profession to keep and maintain 'a daily case register' ..	3C	6F(3)(i)
	(h) Application for exercising or renewing the option for tonnage tax scheme u/s. 115VP(1) or 115VR(1)	65	11P
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, 194J, 194LA & 195	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 a 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 to be furnished by a sub-contractor to a contractor under 2nd proviso to section 194C(3)(i) for non-deduction of tax @ source	15-I	29D(1)
	Particulars to be furnished, to Commissioners of Income-tax, by a contractor under 3rd proviso to section 194C(3)(i)	15J	29D(3)
	(f) Quarterly statement of deduction of tax u/s. 200(3), made by a person u/s. 193, 194, 194A, 194B, 194BB, 194C, 194D, 194EE, 194F, 194G, 194H, 194-I, 194J & 194LA, to be delivered to the Director General of Income-tax (Systems) [DGIS] or the person authorised by the DGIS	26Q	31A(1)(ii)
	(g) 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], rent [Sec. 194-I], fees for professional or technical services or royalty or any sum referred to in section 28(va) [Sec. 194J] & payment of compensation on acquisition of certain immovable property [Sec. 194LA]	16A	31(1)(b)
	(h) Application in duplicate for allotment of a tax deduction and collection account number u/s. 203A(1)	49B	114A(1)
V.	Collection of tax at source u/s. 206C:		
	(a) Application in duplicate for allotment of a tax deduction and collection account number u/s. 203A(1)	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) Application by a buyer or licensee or lessee for a certificate for collection of tax at lower rate u/s. 206C(9)	13	37G
	(d) Certificate to be issued by AO in lieu of application made by the buyer or licensee or lessee u/r. 37G	—	37H(1)
	(e) Quarterly statement of collection of tax u/s. 206C(3), made by a person collecting tax u/s. 206C, to be delivered to the Director General of Income-tax (Systems) [DGIS] or the person authorised by the DGIS	27EQ	31AA(1)
	(f) Certificate for collection of tax at source u/s. 206C(5) to be given by the person collecting tax u/s. 206C(1) or 206C(1C)	27D	37D(1)
VI.	Deductions from gross total income under Chapter VI-A/Rebate under Chapter VIII-A:		
	(a) U/s. 80DD & 80U — Certificate to be obtained from medical authority	*	11A(1)
	(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. 80GG — Declaration to be filed by the assessee claiming deduction u/s. 80GG ..	10BA	11B
	(d) U/s. 80QQB(3) — Certificate from a person responsible for making payment to be furnished with return of income	10CCD	19AC

* 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/Form No. 10-IA [for details, refer footnote No. 12 on page 214].

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 (Contd.):

	<i>Subject</i>	<i>Prescribed Form No.</i>	<i>Refer I.T. Rules</i>
(e)	U/s. 80RRB(2) — Certificate from the prescribed authority [i.e., Controller, ref. to in section 2(1)(b) of the Patents Act, 1970] to be furnished with return of income	10CCE	19AD
(f)	U/s. 80QOB(4), 80R, 80RR, 80RRA & 80RRB(3) — Certificate to be furnished with return of income	10H	29A(1)
(g)	U/s. 88E — Evidence of payment of security transaction tax for claiming deduction u/s. 88E, —		
	(1) on the value of transactions entered into in a recognised stock exchange	10DB	20AB(i)
	(2) on the value of transactions of sale of a unit of an equity oriented fund to the Mutual Fund	10DC	20AB(ii)
VII.	Return of income and return of fringe benefits:		
(a)	In the case of an individual where the total income includes income chargeable to income-tax under the head “Salaries” or income in the nature of family pension as defined in the <i>Explanation</i> to section 57(ia) but does not include any other income except income by way of interest chargeable to income-tax under the head “Income from other sources”	ITR-1 ^{2/3}	12(1)(a)
(b)	In the case of an individual [not being an individual referred to in (a) above] or a HUF where the total income does not include any income chargeable to income-tax under the head “Profits and gains of business or profession”	ITR-2 ^{2/3}	12(1)(b)
(c)	In the case of an individual or a HUF who is a partner in a firm and where the income chargeable to income-tax under the head “Profits and gains of business or profession” does not include any income except the income by way of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from such firm	ITR-3 ^{2/3}	12(1)(c)
(d)	In the case of an individual or a HUF other than the individual/HUF referred to in (a) or (b) or (c) above, and deriving income from a proprietary business or profession	ITR-4 ^{2/3}	12(1)(d)
(e)	In the case of a person not being an individual or a HUF or a company or a person referred to in (g) below, combined form for return of income and fringe benefits	ITR-5 ^{2/3}	12(1)(e)
(f)	In the case of a company not being a company referred to in (g) below, combined form for return of income & fringe benefits	ITR-6 ^{2/3}	12(1)(f)
(g)	In the case of a person including a company whether or not registered u/s. 25 of the Companies Act, 1956, required to file a return u/s. 139(4A)/(4B)/(4C)/(4D), combined form of return of income and fringe benefits	ITR-7 ³	12(1)(g)
(h)	In the case of a person who is not required to furnish the return of income but is required to furnish the return of fringe benefits	ITR-8 ^{2/3}	12(1)(h)
(i)	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 a PAN No. & who enters into any transaction specified in rule 114B	60	2nd Pro. to 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	Proviso to 114C(1)(a)
(j)	Annual information return required to be furnished u/s. 285BA(1).. .. .	61A	114E(1)
VIII.	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
IX.	Refunds:		
	A claim for refund of tax under section 239	30	41(1)
X.	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)].

2. The return of income and return of fringe benefits shall not be accompanied by a statement of computation of the tax payable on the basis of the return, or proof of any tax deducted or collected at source or the advance tax or tax on self-assessment paid or any document or copy of any account or Form or report of audit required to be attached with the return of income/return of fringe benefits [Vide rule 12(2)].

3. The return of income or return of fringe benefits may be furnished either: (a) in a paper form; or (b) electronically under digital signature; or (c) transmitting the data in the return electronically & thereafter submitting the verification of the return in Form ITR-V; or (d) furnishing a bar-coded return in a paper form.

However, in the case of a firm required to furnish the return in Form ITR-5 and to whom provisions of section 44AB are applicable or a company required to furnish the return in Form ITR-6, shall furnish the return in the manner referred to in (b) & (c) above. In the case of person required to furnish the return of income in Form ITR-7 shall furnish the return in a paper form [vide rule 12(3)].

IMPORTANT PRESCRIBED FORMS UNDER THE INCOME-TAX RULES, 1962 (Contd.):

<i>Subject</i>		<i>Prescribed Form No.</i>	<i>Refer I.T. Rules</i>
XI. 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)

COLLECTION OF TAX AT SOURCE [SECTION 206C]

[In respect of collection of tax from buyer or licensee or lessee during the financial year 2008-09]

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 on the aggregate of I.T. & S.C.¹.

TABLE

<i>S.No.</i>	<i>Nature of goods</i>	<i>Percentage to be collected from the buyer as I.T.</i>
(1)	(2)	(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.

Section 206C(1C) provides that, every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any parking lot or toll plaza or mine or quarry², 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 quarry² 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 and also additional surcharge on 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 quarterly statement in the prescribed Form No. 27EQ³ to be delivered to the Director General of Income-tax (Systems) [DGIS] or the person authorised by DGIS, on or before 15-7-2008, 15-10-2008, 15-1-2009 & 30-4-2009 in respect of the period ending on 30-6-2008, 30-9-2008, 31-12-2008 & 31-3-2009, respectively [Proviso to section 206C(3) read with rule 31AA]. Credit for tax so collected 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 and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with section 206C(3)[Section 206C(7)]. In addition, the said person is liable to pay the tax to the credit of the Central Government even though 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 114A has to apply to the AO for allotment of tax-deduction and collection account number in Form 49B (in duplicate) [Section 203A]. Penalty, for non-filing of the statement in prescribed form, is leviable u/s. 272A(2)(c). For details, refer page 196.

1. 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].

2. W.e.f. 1-6-2007, ‘mining and quarrying’ shall not include mining and quarrying of mineral oil. ‘mineral oil’ includes petroleum and natural gas [Explanation 1 & 2 to section 206C(1C)].

3. Where a person responsible for collecting tax is required to file quarterly statement on computer media, such person shall deliver such statement in accordance with the specified scheme [i.e., Electronic Filing of Returns of Tax Collected at Source Scheme, 2005: 274 ITR (St.) 29] in Form No. 27B [vide rule 31AA(3)].

SPECIFIED DATES

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Your obligations on specified dates under the Direct tax laws¹

- 16th June, 2008§** : In the case of old and new assessee, **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, 2008; 15th December, 2008; & 16th March, 2009§, respectively. For further details, refer page 287.
- 15th July, 2008** : For quarter ending on 30-6-2008, submit quarterly statement of: (1) deduction of tax u/s. 200(3) in Form No. 24Q/26Q; & (2) collection of tax under the proviso to section 206C(3) in Form No. 27EQ.
- 31st July, 2008** : Submit return of: (1) Income ‡, † & ** and (2) Wealth ‡ & †, for the assessment year 2008-09.
- 15th Sept., 2008** : In the case of **all non-corporate assessee**s including new non-corporate assessee, 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 15-9-2008) for the assessment year 2009-10 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.
- 30th Sept., 2008** : 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, are required to submit its/his return of Income†&**/Wealth‡, for the assessment year 2008-09.
- 15th Oct., 2008** : For quarter ending on 30-9-2008, submit quarterly statement of: (1) deduction of tax u/s. 200(3) in Form No. 24Q/26Q; & (2) collection of tax under the proviso to section 206C(3) in Form No. 27EQ.
- 15th Dec., 2008** : In the case of **non-corporate assessee**s, 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 16-9-2008 and 15-12-2008, 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 Jan., 2009** : For quarter ending on 31-12-2008, submit quarterly statement of: (1) deduction of tax u/s. 200(3) in Form No. 24Q/26Q; & (2) collection of tax under the proviso to section 206C(3) in Form No. 27EQ.
- 16th March, 2009§** : In the case of **non-corporate assessee**s, 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 16-12-2008, 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 Apr., 2009** : For quarter ending on 31-3-2009, submit quarterly statement of collection of tax under the proviso to section 206C(3) in Form No. 27EQ.
- 15th June, 2009** : For quarter ending on 31-3-2009, submit quarterly statement of deduction of tax u/s. 200(3) in Form No. 24Q/26Q.

§ 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].

‡ 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 175 & Para 7.1 on page 41].

† Proof of payment of self-assessment tax including interest payable u/s. 234B/234C (I.T.) (if, due) [Refer page 179] and necessary particulars and statements required to be filed u/s. 139(9) (I.T.) [For details, refer page 178] is not required to be furnished along with the return of income but on demand to be produced before the AO [Sections 139C & 139D]. It may be noted that report of audit referred to in section 44AB is to be furnished by the 'specified date' i.e., 30th September even if return is not filed by the 'due date'. 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 31-3-2008, 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 not required to be filed along with the return of income for assessment year 2008-09 but on demand to be produced before the AO (Vide sections 139C & 139D) [For details, refer Para 3 of item (B) on page 186].**

* 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:**
- 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)].
 - Tax deducted @ source u/s. 192, 193, 194, 194A, 194B, 194BB, 194C, 194D, 194EE, 194F, 194G, 194H, 194-I, 194-J & 194LA, 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. 353-355.
 - Declarations in the prescribed Form No. 15G, 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.
 - For deduction of tax at source/collection of tax not made prior to 1-10-2004, an application in duplicate for the allotment of tax deduction and collection 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/collected or 31-1-2005, whichever is later, to the Assessing Officer, if you are deducting tax at source/collecting tax and have not been allotted the tax deduction and collection account number.

1. For your obligation on specified date, in respect of 'fringe benefits', refer page 201, 202 & Para 8.1(F) on page 44.

ACCOUNTING PERIODS WITH REFERENCE TO ASSESSMENT YEAR

Assessment Year	Financial Year ending on	Exemption Limits for Individuals		Assessment Year	Financial Year ending on	Exemption Limits for Individuals	
		I.T. Rs.	W.T. Rs.			I.T. Rs.	W.T. Rs.
2002-03§	31-3-2002	50,000	15,00,000	2006-07§	31-3-2006	1,00,000 †	15,00,000
2003-04§	31-3-2003	50,000	15,00,000	2007-08§	31-3-2007	1,00,000 †	15,00,000
2004-05§	31-3-2004	50,000	15,00,000	2008-09*	31-3-2008	1,10,000 †	15,00,000
2005-06§	31-3-2005	50,000	15,00,000	2009-10	31-3-2009	1,50,000 †	15,00,000

§ The time limit for issue of notice under section 149 read with section 151 is given on page 181.

* 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 175 [Section 142(1)(i)].

† In the case of every individual, being a woman resident in India, and below the age of 65 years at any time during the previous year relevant to: (1) assessment year 2006-07/2007-08, exemption limit of I.T. is Rs. 1,35,000; (2) assessment year 2008-09, exemption limit of I.T. is Rs. 1,45,000; & (3) assessment year 2009-10, exemption limit of I.T. is Rs. 1,80,000.

In the case of every individual, being resident in India, who is of the age of 65 years or more at any time during the previous year relevant to: (1) assessment year 2006-07/2007-08, exemption limit of I.T. is Rs. 1,85,000; (2) assessment year 2008-09, exemption limit of I.T. is Rs. 1,95,000; & (3) assessment year 2009-10, exemption limit of I.T. is Rs. 2,25,000.

COST INFLATION INDEX

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	14.	1994-95	259
2.	1982-83	109	15.	1995-96	281
3.	1983-84	116	16.	1996-97	305
4.	1984-85	125	17.	1997-98	331
5.	1985-86	133	18.	1998-99	351
6.	1986-87	140	19.	1999-2000	389
7.	1987-88	150	20.	2000-01	406
8.	1988-89	161	21.	2001-02	426
9.	1989-90	172	22.	2002-03	447
10.	1990-91	182	23.	2003-04	463
11.	1991-92	199	24.	2004-05	480
12.	1992-93	223	25.	2005-06	497
13.	1993-94	244	26.	2006-07	519
14.	1994-95	259	27.	2007-08	551

·VGM·

V. G. Mehta's Income - Tax

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