

CHAPTER I

1. Short title, extent and commencement

This Act may be called the Income-tax Act, 1961. It extends to the whole of India. It shall come into force on the 1st day of April, 1962.

2. Definitions

(1) Advance tax: - advance tax means the advance tax payable in accordance with the provisions of Chapter XVII-C.

(1A) Agricultural income (also see rule 7, 7A, 7B & 8 only for non-corporate assesses): - agricultural income means

(a) any rent or revenue derived from **land**

Which is *situated* in India **and** is *used* for agricultural purposes

(b) Any income derived from *such land* by—

(i) Agriculture or

(ii) The performance by a *cultivator or receiver* of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market or

(iii) The sale by a *cultivator or receiver* of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause ;

(c) any income derived from any **building** owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on :

{**Provided** that—

(i) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(ii) Rural land: - land **which is not** situated—

- (A) in any area the *jurisdiction of a municipality or a cantonment board* and which has a population of *not less than ten thousand* according to the *last preceding census* of which the relevant figures have been published before the first day of the previous year ; or
- (B) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (A)

{*Explanation 1.*—For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this section.]

{*Explanation 2.*—For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub-clause (b) shall not be agricultural income.}]

{*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;}]

(1B) Amalgamation: - amalgamation, *in relation to companies*, means the *merger* of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that—

- (i) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation ;
- (ii) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation ;
- (iii) shareholders holding not less than {three-fourths} in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company ;]

(5) Approved gratuity fund: - approved gratuity fund means a gratuity fund which has been and continues to be *approved by the Chief Commissioner or Commissioner* in accordance with the rules.

(6) Approved superannuation fund: - approved superannuation fund means a superannuation fund or any part of a superannuation fund which has been and continues to be *approved by the Chief Commissioner or Commissioner* in accordance with the rules.

(7) Assessee :- assessee means a person by whom *any tax or any other sum of money* is ***payable*** under this Act, and includes—

- (a) *every person in respect of whom any proceeding* under this Act has been taken for the assessment of his income or assessment of fringe benefits or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person ;
- (b) every person who is *deemed to be an assessee* under any provision of this Act ;
- (c) every person who is *deemed to be an assessee in default* under any provision of this Act ;

(9) Assessment year:- assessment year means the *period of twelve months commencing on the 1st day of April every year* ;

(14) Capital asset: - "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

- (i) *any stock-in-trade*, consumable stores or raw materials held for the purposes of his business or profession ;
- (ii) *personal effects*, that is to say, *movable property* (including wearing apparel and furniture) *held for personal use* by the assessee or any member of his family dependent on him, but excludes—
 - (a) jewellery;
 - (b) archaeological collections;
 - (c) drawings;
 - (d) paintings;
 - (e) sculptures; or
 - (f) any work of art.

Explanation.—For the purposes of this sub-clause, "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 stone, and whether or not worked or sewn into any wearing apparel;
- (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;]
- (iii) agricultural land in India, not being land situate—
 - (a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or
 - (b) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a), as the Central Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette]
- (iv) Gold Deposit bond issued by the Central Government.

(17) "company" means—

- (i) *any Indian company, or*
- (ii) *any body corporate incorporated by or under the laws of a country outside India, or*
- (iii) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 (11 of 1922), or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, or
- (iv) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a company :

Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether

commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration ;]

(19AA) Demerger:- demerger, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

- (i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;
- (ii) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;
- (iii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;
- (iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis *{except where the resulting company itself is a shareholder of the demerged company}*;
- (v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become share-holders of the resulting company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;
- (vi) the transfer of the undertaking is on a going concern basis;
- (vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of [section 72A](#) by the Central Government in this behalf.

Explanation 1.—For the purposes of this clause, "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Explanation 2.—For the purposes of this clause, the liabilities referred to in sub-clause (ii), shall include—

- (a) the liabilities which arise out of the activities or operations of the undertaking;
- (b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and
- (c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.—For determining the value of the property referred to in sub-clause (iii), any change in the value of assets consequent to their revaluation shall be ignored.

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils {such conditions as may be notified in the Official Gazette, by the Central Government};

(22) Dividend:- dividend includes—

- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;
- (b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not ;
- (c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not ;
- (d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated

profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not ;

- (e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) {made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)] or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits ;

but "dividend" does not include—

- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ;
- (ia) a distribution made in accordance with sub-clause (c) or sub-clause (d) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, {and before the 1st day of April, 1965] ;]
- (ii) any advance or loan made to a shareholder {or the said concern] by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ;
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off;
- {(iv) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);
- (v) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).]

Explanation 1.—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956.

Explanation 2.—The expression "accumulated profits" in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (c) shall include all profits of the company up to the date of liquidation, ³{but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place}.

{*Explanation 3.*—For the purposes of this clause,—

(a) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company ;

(b) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the income of such concern ;]

(iii) "partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);]

(25A) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;]

(26) "Indian company" means a company formed and registered under the Companies Act, 1956 (1 of 1956), and includes—

(i) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir {and the Union territories specified in sub-clause (iii) of this clause};

(ia) a corporation established by or under a Central, State or Provincial Act ;

(ib) any institution, association or body which is declared by the Board to be a company under clause (17) ;]

(ii) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State ;

(iii) in the case of any of the Union territories of Dadra and Nagar Haveli, Govt, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory :]

Provided that the {registered or, as the case may be, principal office of the company, corporation, institution, association or body] in all cases is in India ;

(26A) "infrastructure capital company" means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of [section 80-IA](#) or sub-section (1) of [section 80-IAB](#) or an undertaking developing and building a housing project referred to in sub-section (10) of [section 80-IB](#) or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;

(26B) "infrastructure capital fund" means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of [section 80-IA](#) or sub-section (1) of [section 80-IAB](#) or an undertaking developing and building a housing project referred to in sub-section (10) of [section 80-IB](#) or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;]

{(29A) "long-term capital asset" means a capital asset which is not a short-term capital asset ;

(29B) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset ;]

(30) "non-resident" means a person who is not a "resident", and for the purposes of [sections 92, 93](#) and [168](#), includes a person who is not ordinarily resident within the meaning of clause (6) of [section 6](#) ;

(31) "person" includes—

(i) an individual,

- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

{*Explanation.*—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a 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;]

(32) "person who has a substantial interest in the company", in relation to a company, means a person who is the *beneficial owner of shares, not being shares entitled to a fixed rate of dividend* whether with or without a right to participate in profits, carrying *not less than twenty per cent of the voting power*

(41) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual ;

(42A) {"short-term capital asset" means a capital asset held by an assessee for not more than {thirty-six] months immediately preceding the date of its transfer :]

{**Provided** that in the case of a share held in a company{or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or a unit of a Mutual Fund specified under clause (23D) of [section 10](#)] or a zero coupon bond], the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.]

{*Explanation 1*].—(i) In determining the period for which any capital asset is held by the assessee—

- (a) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation ;

- (b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in {sub-section (1)] of [section 49](#), there shall be included the period for which the asset was held by the previous owner referred to in the said section ;
- (c) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (vii) of [section 47](#), there shall be included the period for which the share or shares in the amalgamating company were held by the assessee ;]
- {(d) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset ;
- (e) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer ;]
- {(f) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset ;]
- {(g) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee ;]
- {(h) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of [section 47](#), there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;
- (ha) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (xiii) of [section 47](#), there shall be included the period for which the person was a member of the

recognised stock exchange in India immediately prior to such demutualisation or corporatisation;]

{(hb) in the case of a capital asset, being 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), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;]

(ii) In respect of capital assets other than those mentioned in clause (i), the period for which any capital asset is held by the assessee shall be determined subject to any rules which the Board may make in this behalf.]

{*Explanation 2.*—For the purposes of this clause, the expression "security"¹⁸ shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

{*Explanation 3.*—For the purposes of this clause, the expressions "specified security" and "sweat equity shares" shall have the meanings respectively assigned to them in the *Explanation* to clause (d) of sub-section (1) of [Section 115WB](#)

(42B) short-term capital gain means capital gain arising from the transfer of a short-term capital asset

(42C) 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.

Explanation 1.—For the purposes of this clause, "undertaking" shall have the meaning assigned to it in *Explanation 1* to clause (19AA).

Explanation 2.—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities ;]