

## **INCOME TAX RULES, 1962**

### CONTENTS

#### **PART 1 :- PRELIMINARY**

1. Short title and commencement
2. Definitions

#### **PART 2 :- DETERMINATION OF INCOME**

- 2A. Limits for the purposes of section 10(13A).
- 2B. Conditions for the purpose of section 10(5).
- 2BA. Guidelines for the purposes of section 10(10C).
- 2BB. Prescribed allowances for the purposes of clause (14) of section 10.
- 2BBA. Circumstances and conditions for the purposes of clause (19) of section 10.
- 2BBB. Percentage of Government Grant for considering university, hospital etc. as substantially financed by the Government for the purposes of clause (23C) of section 10.
- 2BC. Amount of annual receipts for the purposes of sub-clauses (iiia) and (iiib) of clause (23C) of section 10.
- 2C. Guidelines for approval under sub-clauses (iv) and (v) of clause (23C) of section 10.
- 2CA. Guidelines for approval under sub-clauses (vi) and (via) of clause (23C) of section 10.
- 2D. Guidelines for approval under clause (23F) of section 10.
- 2DA. Guidelines for approval under clause (23FA) of section 10.(1)
- 2E. Guidelines for approval under clause (23G) of section 10
- 2F. Guidelines for setting up an Infrastructure Debt Fund for the purpose of exemption under clause(47) of section 10
3. Valuation of perquisites
- 3A. Exemption of medical benefits from perquisite value in respect of medical treatment of prescribed diseases or ailments in hospitals approved by the Chief Commissioner.
4. Unrealised rent
5. Depreciation
- 5A. Form of report by an accountant for claiming deduction under section 32(1)(ia)
- 5AA. Prescribed authority for investment allowance.
- 5AB. Report of audit of accounts to be furnished under section 32AB(5).
- 5AC. Report of audit of accounts to be furnished under section 33AB(2).

5AD. Report of audit of accounts to be furnished under section 33ABA(2).

5B. Development rebate

5C. Guidelines, form and manner in respect of approval under clause (ii) and clause (iii) of sub-section (1) of section 35

5D. Conditions subject to which approval is to be granted to a research association under clause (ii) or clause (iii) of sub-section (1) of section 35

5E. Conditions subject to which approval is to be granted to a University, College or other Institution under clause (ii) and clause (iii) of sub-section (1) of section 35

5F. Prescribed authority, guidelines, form, manner and conditions for approval under clause (iia) of sub-section (1) of section 35

6. Prescribed authority for expenditure on scientific research

6A. Omitted

6AA. Omitted

6AAA. Prescribed authority for the purposes of sections 35CC and 35CCA

6AAB. Omitted

6AAC. Prescribed authority for the purposes of section 35CCB.

6AAD. Guidelines for approval of agricultural extension project under section 35CCC.

6AAE. Conditions subject to which an agricultural extension project is to be notified under section 35CCC

6AAF. Guidelines for approval of skill development project under section 35 CCD

6AAG. Conditions subject to which a skill development project is to be notified under section 35CCD

6AAH. Meaning of expressions used in rule 6AAF and rule 6AAG

6AB. Form of audit report for claiming deductions under sections 35D and 35E

6 A B A . Computation of aggregate average advances for the purposes of clause (vii a) of sub-section (1) of section 36

6ABAA. XXX XXX XXX

6ABB. Form of report for claiming deduction under clause (xi) of sub-section (1) of section 36

6AC. Omitted

6B. Omitted

6C. Omitted

6D. Omitted

6DD. Cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

6DDA. Conditions that a sk exchange is required to fulfil to be notified as a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43.

6DDB. Notification of a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43

6DDC. Conditions that a recognised association is required to fulfil

to be notified as a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43

6DDD. Notification of a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43

6E. Limits of reserve for unexpired risks

6EA. Special provision regarding Interest on bad and doubtful debts of financial Institutions, banks, etc

6EB. Categories of bad or doubtful debts in the case of a public company under clause (b) of section 43D.

6F. Books of account and other documents to be kept and maintained under section 44AA(3) by persons carrying on certain professions.

6G. Report of audit of accounts to be furnished under section 44AB

6GA. Form of report of audit to be furnished under sub-section (2) of section 44DA

6H. Form of report of an accountant under sub-section (3) of section 50B

7. Income which Is partially agricultural and partially from business

7A. Income from the manufacture of rubber

7B. Income from the manufacture of coffee

8. Income from the manufacture of tea

8A. Conditions for the grant of development allowance

8B. Guidelines for notification of zero coupon bond

8C. For the purposes of clause (iiia) of sub-section (1) of section 36

8D. Method for determining amount of expenditure in relation to income not includible in total income

9. Royalties or copyright fees, etc., for literary or artistic work

9A. Deduction in respect of expenditure on production of feature films

9 B . Deduction in respect of expenditure on acquisition of distribution rights of feature films

9C. Conditions for carrying forward or set-off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation

10. Determination of income in the case of non-residents

10A. Meaning of expressions used in computation of arms length price

10AB. Other method of determination of arms length price

10B. Determination of arms length price under section 92C

10C. Most appropriate method

10D. Information and documents to be kept and maintained under section 92D

10E. Report from an accountant to be furnished under section 92E

10F. Meaning of expressions used in matters in respect of advance pricing agreement

10G. Persons eligible to apply

10H. Pre-filing Consultation

10I. Application for advance pricing agreement

10J. Withdrawal of application for agreement

10K. Preliminary processing of application

10L. Procedure

10M. Terms of the agreement  
10MA. Roll Back of the Agreement  
10N. Amendments to Application  
10O. Furnishing of Annual Compliance Report  
10P. Compliance Audit of the agreement  
10Q. Revision of an agreement  
10R. Cancellation of an agreement  
10RA. Procedure for giving effect to rollback provision of an Agreement  
10S. Renewing an agreement  
10T. Miscellaneous  
10TA. Definitions  
10TB. Eligible assessee  
10TC. Eligible international transaction  
10TD. Safe Harbour  
10TE. Procedure  
10TF. Safe harbour rules not to apply in certain cases  
10TG. Mutual Agreement Procedure not to apply  
10TH. Definitions  
10THA. Eligible assessee  
10THB. Eligible specified domestic transaction  
10THC. Safe Harbour  
10THD. Procedure  
10U. Chapter X-A not to apply in certain cases  
10UA. Determination of consequences of impermissible avoidance arrangement  
10UB. Notice, Forms for reference under section 144BA  
10UC. Time limits  
11. Determination of income from transactions with non-residents  
11A. Medical authority for certifying autism, cerebral palsy and multiple disabilities and certificate to be obtained from the medical authority for the purposes of deduction under Section 80DD and Section 80U  
11AA. Requirements for approval of an institution or fund under section 80G  
11B. Conditions for allowance for deduction under section 80GG  
11C. Prescribed fields for the purposes of deduction in respect of remuneration received from foreign employers or Indian concerns under section 80RRA  
11D. Permanent physical disabilities for the purposes of deduction under section 80U  
11DD. Specified diseases and ailments for the purposes of deduction under section 80DDB  
11E. Application for approval of agreement under section 80-O.  
11EA. Guidelines for specifying industrially backward districts for the purpose of deduction under 2[sub-section (5) of section 80-IB]  
11EE. Form of statement to be furnished under section 115K  
11F. General  
11G. Composition of the National Committee  
11H. Headquarters and Secretariat

- 11I. Functions
- 11J. Guidelines for approval of associations and institutions
- 11K. Guidelines for recommending projects or schemes
- 11L. Application for approval of an association or institution or for recommendation of a project or scheme by the National Committee
- 11M. Procedure before the National Committee
- 11MA. Form of report by an approved association or institution under clause (ii) of sub-section (4) of section 35AC
- 11MAA. Form of report by public sector company or local authority or association or institution, which is carrying out a notified eligible project or scheme, under clause (ii) of sub-section (5) of section 35AC
- 11N. Other provisions
- 11O. Certificate of payment or expenditure in respect of eligible projects or schemes notified under section 35AC
- 11OA. Guidelines for notification of affordable housing project as specified business under section 35AD
- 11OB. Guidelines for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD
- 11P. Application for exercising or renewing the option for tonnage tax scheme
- 11Q. Computation of deemed tonnage
- 11R. Incidental activities for purposes of relevant shipping income
- 11S. Computation of average of net tonnage for charter-in of tonnage
- 11T. Form of report of an accountant under clause (ii) of section 115VW
- 11U. Meaning of expressions used in determination of fair market value
- 11UA. Determination of Fair Market Value

### **PART 3 :- ASSESSMENT PROCEDURE**

- 12. [Return of income.
- 12A. 39[Preparation of return by authorised representative.
- 12B. 41[Statement under sub-section (3A) of section 115R.
- 12C. 42[Statement under sub-section (2) of section 115U.
- 13. Application for extension of time for filing return of income.
- 14. Form of verification under section 142.
- 14A. 45[45Form of audit report under section 142(2A).
- 14B. Form of application objecting to an assessment made under section 143(1).
- 15. Notice of demand for regular assessment, etc.

### **PART 3A :- AVOIDANCE OF REPETITIVE APPEALS**

- 16. Declaration under section 158A.

### **PART 4 :- TAX EXEMPTIONS AND RELIEFS**

16A. Prescribed authority for approving any institution or body established for scientific research.

16B. 58[Prescribed authority for the purposes of clauses (8A) and (8B) of section 10.

16C. 59[Requirements for approval of a fund under section 10(23AAA).

16D. 60[Form of report for claiming deduction under section 10A.

16E. 61[Form of report for claiming deduction under section 10B.

17. 62[Notice for accumulation of income by charitable or religious trust or institution or association referred to in clauses (21) and (23) of section 10.

17A. 63[Application for registration of charitable or religious trusts, etc.

17B. 65[Audit report in the case of charitable or religious trusts, etc.

17C. 66[Forms or modes of investment or deposits by a charitable or religious trust or institution.

17D. 71[Prescribed foreign projects for the purposes of deduction in respect of profits and gains from projects outside India under section 80HHB.

18. Accommodation and amenities to be provided by hotels.

18A. Prescribed authority to certify the daily average number of rehabilitated employees in an industrial undertaking.

18AA. Prescribed authority for approval of a hotel under section 80CC.

18AAA. 73[Prescribed authority for approval of a University or any educational institution of national eminence for the purpose of section 80G.

18AAAA. Prescribed authority for the purpose of receiving separate accounts from trust or funds or institutions for providing relief to the victims of earthquake in Gujrat

18AAB. 74[Prescribed authority for approval of companies engaged in Scientific and Industrial Research and Development for the purposes of section 80-IA.

18B. 75[Form of audit report for claiming deduction under section 80HH.

18BB. 76[Form of audit report for claiming deduction under section 80HHA.

18BBA. 77[78[Form of reports for claiming deduction under section 80HHB or under section 80HHC or under section 80HHD and prescribed authority under section 80HHD.]

18BBB. "Form of audit report for claiming deduction under section 80-1 or 80-IA or section 80-IB. 18BBB

18BBC. 92[Prescribed authority for approval of hotels located in certain areas.

18BBD. 93[Prescribed authority for approval of companies carrying on scientific and industrial research and development.

18BBE. 94[Computation of profits of certain activities forming integral part of a highway project for the purpose of section 80-IA.

18C. [Eligibility of Industrial Parks and special Economic Zones for

benefits under section 80-IA(4D)(iii).

18D. Prescribed authority for approval of companies carrying on scientific research and development.

18DA. Prescribed conditions for deduction under sub-section (8A) of section 80-IB.

19. Computation of capital employed in an industrial undertaking or a hotel.

19A. computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.

19AB. 3[Form of report for claiming deduction under section 80JJAA.

20. 4[Guidelines for approval under clause (xvi) of sub-section (2) of section 88.

27A. 7[Guidelines for approval under clause (xvii) of sub-section (2) of section 88.

21. Limits for life insurance premia in the case of authors, etc.

21A. 8[Relief when salary is paid in arrears or in advance, etc.

21AA. Furnishing of particulars for claiming relief under section 89(1).

21B. Relief when interest on securities is received in arrears.

## **PART 5 :- REGISTRATION OF FIRMS**

22. Application for registration of a firm.

23. Intimation regarding subsequent changes in constitution, etc.

24. Declaration for continuation of registration.

24A. [Communication regarding partner who is a benamidar

25. Certificate of registration

## **PART 6 :- DEDUCTION OF TAX AT SOURCE**

26. Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency.

26A. Furnishing of particulars of income under the head "Salaries".

26B. [Furnishing of particulars of income under heads of income other than "Salaries" for deduction of tax at source

27. Prescribed arrangements for declaration and payment of dividends within India.

28. Application for certificates for deduction of tax at lower rates.

28A. Statement by shareholder claiming receipt of dividend without deduction of tax.

28AA. [Certificate of no deduction of tax or deduction at lower rates from income other than dividends

29. Certificate of no deduction of tax or deduction at lower rates from dividends.

29A. [Form of certification to be filled with the return of income for claiming deduction under sections 80R, 80RR and 80RRA

29AA. Form of certification to be filled with the return of income for claiming deduction under section 80-O.

29B. Application for certificate authorising receipt of interest and other sums without deduction of tax

- 29C. Declaration by person claiming receipt of certain incomes without deduction of tax
- 30. Time and mode of payment to Government account of tax deducted at source.
- 30A. Credit for tax deducted at source to a person other than the shareholder in certain circumstances
- 31. Certificate of tax deducted at source
- 32. Monthly statement or certificate of deduction of tax from "Salaries".
- 33. Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund.
- 34. Return in lieu of monthly return under rule 32.
- 35. Annual return of salaries paid and tax deducted therefrom.
- 36. Prescribed persons for section 206.
- 36A. Prescribed persons for section 206.
- 37. Prescribed returns regarding tax deducted at source under section 206.
- 37A. Returns regarding tax deducted at source in the case of non-residents.
- 37AA. Return of interest paid to residents without deduction of tax.
- 37B. [Returns regarding tax deducted at source on computer media under sub-section (2) of section 206.

#### **PART 6A :- COLLECTION OF TAX AT SOURCE**

- 37C. Certificate for no collection of tax at source under section 206C(1).
- 37D. Certificate for collection of tax at source under section 206C(5).
- 37EA. Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C
- 37F. Income-tax authority for purposes of section 206C(5A)
- 37G. Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.
- 37H. Certificate for collection of tax at lower rates from buyer under sub-section (9) of section 206C.

#### **PART 7 :- PAYMENT OF ADVANCE TAX**

- 38. Notice of demand
- 38A. Statement of advance tax.
- 39. Estimate of advance tax.
- 40. Waiver of interest

#### **PART 7A :- TAX CREDIT**

- 40A. Claim for credit

#### **PART 7B :- MINIMUM ALTERNATE TAX**

- 40B. Special provision for payment of tax by certain companies.



## **PART 8 :- REFUNDS**

41. Refund claim

## **PART 9 :- TAX CLEARANCE CERTIFICATES**

42. Application for tax clearance certificate.

43. Form of certificat

44. Production of certificate

44A. Application for tax clearance certificate for registration of documents in certain cases

44B. Grant of tax clearance certificate or refusal

## **PART 9A :- SETTLEMENT OF CASES**

44C. Form of application for settlement of case

44CA. Disclosure of information in the application for settlement of cases

44D. Fee for furnishing copy of report

## **PART 9B :- ADVANCE RULINGS**

44E. Form of application for obtaining an advance ruling

44F. Certification of copies of the advance rulings pronounced by the Authority

## **PART 10 :- APPEALS**

45. Form of appeal to [ \* \* \* ] [ \* \* \* ] Commissioner (Appeals)].

46. Mode of service.

46A. Production of additional evidence before the [Deputy Commissioner (Appeals)] [and Commissioner (Appeals)]

47. Form of appeal and memorandum of cross-objections to Appellate Tribunal

48. Form of application for reference to High Court

## **PART 10A :- ANNUITY DEPOSITS**

48A. Notice of demand

48B. Estimate of advance deposit

48C. Estimate of annuity deposit for the assessment year 1964-65

## **PART 10B :- ACQUISITION OF IMMOVABLE PROPERTIES UNDER CHAPTER XXA**

48D. Jurisdiction of competent authorities.

48DD. Statement to be registered with the competent authority under section 269AB

48E. Manner of publication of notice for acquisition

48F. Form of appeal to the Appellate Tribunal

48G. Statement to be furnished in respect of transfers of immovable property

48H. Form of fortnightly return to be forwarded by registering

officer to the competent authority.

## **PART 10C :- PURCHASE OF IMMOVABLE PROPERTIES UNDER CHAPTER XXC**

48I. Rate of interest for determination of discounted value of consideration

48J. Jurisdiction of appropriate authority

48K. Value of immovable property

48L. Statement to be furnished under section 269UC(3)

## **PART 11 :- AUTHORISED REPRESENTATIVES**

49. Definitions

50. Accountancy examinations recognised

51. Educational qualifications prescribed

52. Prescribed authority for section 288(5)(b)

53. Register of income-tax practitioners

54. Application for registration

55. Certificate of registration

56. Cancellation of certificate

57. Cancellation of certificate obtained by misrepresentation

58. Removal of name of authorised income-tax practitioner who is insolvent or on whom penalty has been imposed

59. Prescribed authority to order an inquiry

60. Charge-sheet

61. Inquiry Officer

62. Proceedings before Inquiry Officer.

63. Order of the prescribed authority.

64. Procedure if no Inquiry Officer appointed

65. Change of Inquiry Officer

66. Powers of prescribed authority and Inquiry Officer.

## **PART 12 :- RECOGNISED PROVIDENT FUNDS**

67. 64[Investment of fund moneys.

67A. 77[Nomination.

68. Circumstances in which withdrawals may be permitted.

69. Conditions for withdrawal for various purposes.

70. Second withdrawal.

71. Repayment of amounts withdrawn.

72. Amount withdrawn but not repaid may be deemed as income.

73. 19[Withdrawal within twelve months before retirement.

74. Accounts.

75. Limits for contributions.

76. Penalty for assigning or creating a charge on beneficial interest.

77. Application for recognition.

78. Order of recognition.

79. Withdrawal of recognition.

80. Exemption from tax when recognition withdrawn.

81. Appeal.

## **PART 13 :- APPROVED SUPERANNUATION FUNDS**

82. Definitions.
83. Establishment of fund and trust.
84. Conditions regarding trustees.
85. 31[Investment of fund moneys.
86. Admission of directors to a fund.
87. Ordinary annual contributions.
88. Initial contributions.
89. 37Scheme of insurance or annuity.
90. 39[Commutation of annuity.
91. Beneficiary not to have any interest in insurance and employer not to have any interest in funds moneys.
92. Penalty if employee assigns or charges interest in fund.
93. Arrangements on winding up, etc., of business.44
94. Arrangements for winding up, etc., of fund.46
95. Application for approval.
96. Amendment of rules, etc., of fund.
97. Appeal.

## **PART 14 :- 48APPROVED GRATUITY FUNDS**

98. Definitions.
99. Establishment of fund and trust.
100. Conditions regarding trustees.
101. 50[Investment of fund moneys.
- 101A. 54[Nomination.
102. Admission of directors to a fund.
103. Ordinary annual contributions.
104. Initial contributions.
105. Penalty if employee assigns or charges interest in fund.
106. Employer not to have interest in fund moneys.
107. Arrangements, for winding up, etc., of business.
108. Arrangements for winding up of the fund.
109. Application for approval.
110. Amendment of rules, etc., of fund.
111. Appeal.

## **PART 15 :- MISCELLANEOUS**

- 111A. Application for reduction of the amount of minimum distribution by a company
- 111AA. Conditions for reference to Valuation Officers
- 111AB. Form of report of valuation by registered valuer
- 111B. Publication and circulation of Boards order
112. Search and seizure
- 112A. Inquiry under section 132
- 112B. Release of articles under section 132(5)
- 112C. Release of remaining assets
- 112D. Requisition of books of account, etc
- 112E. Form of information under section 133B(1)

113. Disclosure of information respecting assesseees
114. Application for allotment of a permanent account number
- 114A. Application for allotment of a tax deduction account number
- 114AA. Application for allotment of a tax collection account number
- 114B. All documents pertaining to the transactions in relation to which permanent account number or General Index Register Number to be quoted for the purpose of clause (c) of sub-section (5) of section 139A
- 114C. Class or classes of persons to whom provisions of section 139A shall not apply
- 114D. Time and manner in which persons referred to in sub-rule (2) of rule 114C shall intimate the details of transaction to the Director of Income-tax (Investigation)
115. Rate of exchange for conversion into rupees of income expressed in foreign currency
- 115A. Rate of exchange for conversion of rupees into foreign currency and reconversion of foreign currency into rupees for the purpose of computation of capital gains under the proviso to clause (a) of sub-section (1) of section 48 of the Act
116. Return of interest paid.
117. Return of dividends paid
- 117A. Reduction or waiver of interest payable under section 139
- 117B. Form of statement under section 222 or section 223
118. Levy of interest under section 220(2) where a recovery certificate is not issued
119. Levy of Interest under section 220(2) in a case where a recovery certificate is issued
- 119A. Procedure to be followed in calculating interest
120. Form for furnishing particulars by contractor
121. Procedure for imposition of fine
- 121A. Form of statement to be furnished by producer of cinematograph films
122. Notice in respect of properties held benami
123. Application for obtaining certified copies of certain notices
124. Fees for obtaining certified copy of notice
125. Deductions and allowances for the transitional previous year relating to assessment year 1989-90

## **INCOME TAX RULES, 1962**

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), and rule 15 of Part A, rule 11 of Part B and rule 9 of Part C of the Fourth Schedule to that Act, the Central Board of Revenue hereby makes the following rules, namely :

### **PART 1 PRELIMINARY**

#### **1. Short title and commencement :-**

- (1) These rules may be called the Incometax Rules, 1962.

(2) They shall come into force on the 1st day of April, 1962.

## **2. Definitions :-**

(1) In these rules, unless the context otherwise requires,--

(a) "Act" means the Income-tax Act, 1961 (43 of 1961);

(aa) "authorised bank" means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of subsection (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);

(b) "Chapter", "section" and "Schedule" means respectively Chapter and section of, and Schedule to, the Act.

(2) All references to "Forms" in these rules shall be construed as references to the forms set out in Appendix II hereto.

## **PART 2 DETERMINATION OF INCOME**

### **2A. 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-fifth of the amount of salary due to the assessee in respect of the relevant period,

(d) Omitted by the IT (Fourth Amdt.) Rules, 1986, w.e.f. 1-4-1987. whichever is the least.

Explanation : In this rule--

(i) "salary" 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.

(iii) Omitted by the IT (Fourth Amdt.) Rules, 1986, w.e.f. 1-4-1987.

**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 :--

<sup>1</sup>[(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 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 the 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 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and

(B) where no recognised public transport system exists, an amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.

(2) The exemption referred to in sub-rule (1) shall be available to an individual in respect of two journeys performed in a block of four calendar years commencing from the calendar year 1986 :

<sup>2</sup>[Provided that nothing contained in this sub-rule shall apply to the benefit already availed of by the assessee in respect of any number of journeys performed before the 1st day of April, 1989 except to

the extent that the journey or journeys so performed shall be taken into account for computing the limit of two journeys specified in this sub-rule.]

(3) Where such travel concession or assistance is not availed of by the individual during any such block of four calendar years, an amount in respect of the value of the travel concession or assistance, if any, first availed of by the individual during first calendar year of the immediately succeeding block of four calendar years shall be eligible for exemption.

Explanation : The amount in respect of the value of the travel concession or assistance referred to in this sub-rule shall not be taken into account in determining the eligibility of the amount in respect of the value of the travel concession or assistance in relation to the number of journeys under sub-rule (2).

<sup>3</sup>[(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.]

1. Substituted by the IT (First Amdt.) Rules, 1998, w.r.e.f. 1-10-1997, Prior to their substitution, clauses (i) (ii) and (iii), as amended by the IT (Fifth Amdt.) Rules, 1990, w.r.e.f. 1-4-1989, read as under:

"(i) where the journey is performed on or after the 1st day April, 1989 by rail, an amount not exceeding the air-conditioned second class fare 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 April, 1989 between such places, the amount eligible for exemption shall be,-

(A) where a recognized public transport system exists, an amount not exceeding the 1st class or deluxe fare, as the case may be, on such transport by the shortest route to the place of destination; and

(B) where no recognized public transport system exists, an amount equivalent to the air-conditioned second class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.

2. Inserted by the IT (Fifth Amdt.) Rules, 1990, w.r.e.f. 1-4-1989.

3. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.r.e.f. 1-10-1997.

**2BA. Guidelines for the purposes of section 10(10C). :-**

2BA.- <sup>1</sup>[Guidelines for the purposes of section 10(10C).

The amount received by an employee of-

(i) a public sector company; or

(ii) any other company; or

(iii) an authority established under a Central, State or Provincial Act; or

(iv) a local <sup>2</sup>[authority; or]

<sup>3</sup>[(v) a co-operative society; or

(vi) a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or

(vii) an Indian Institute of Technology within the meaning of clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961); or

<sup>13</sup>[(viiia) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or]

(viii) such institute of management as the Central Government may, by notification in the Official Gazette specify in this behalf,

at the time of his voluntary retirement <sup>4</sup>[or voluntary separation] shall be exempt under clause (10C) of section 10 only if the scheme of voluntary retirement framed by the aforesaid company or authority <sup>5</sup>[or co-operative society or University or institute], as the case may be <sup>6</sup>[or if the scheme of voluntary separation framed by a public sector company,] is in accordance with the following requirements, namely :--

(i) it applies to an employee <sup>7</sup>[\*\*\*] who has completed 10 years of service or completed 40 years of age;

<sup>8</sup>[(ii) it applies to all employees (by whatever name called) including workers and executives of a company or of an authority or of a co-operative society, as the case may be, excepting directors of a company or of a co-operative society;]

(iii) the scheme of voluntary retirement <sup>9</sup>[or voluntary separation] has been drawn to result in overall reduction in the existing strength of the employees <sup>10</sup>[\*\*\*];

(iv) the vacancy caused by the voluntary retirement <sup>9</sup>[or voluntary separation] is not to be filled up;

(v) the retiring employee of a company shall not be employed in another company or concern belonging to the same management;



(vi) the amount receivable on account of voluntary retirement <sup>9</sup>[or voluntary separation] of the employee does not exceed the amount equivalent to <sup>12</sup>[three months] salary for each completed year of service or salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation:

<sup>11</sup>[Provided that requirement of (i) above would not be applicable in case of amount received by an employee of a public sector company under the scheme of voluntary separation framed by such public sector company]

Explanation : In this rule, the expression "salary" shall have the same meaning as is assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.

1 Substituted by the IT (First Amdt.) Rules, 1993, w.r.e.f.) 18-8-1992. Prior to its substitution, rule 2BA as inserted by the IT (Sixteenth Amdt.) Rules, 1992, w.e.f. 18-8-1992, and amended by the IT (Third Amdt.) Rules, 1993, w.e.f. 26-2-1993, read as under: 2BA. Guidelines for the purpose of section 10(10C).-The amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement shall be exempt under clause (10C) of section 10 only if the scheme of voluntary retirement shall be exempt under clause (10C) of section 10 only if the scheme of voluntary retirement framed by the aforesaid company is in accordance with the following requirements, namely :--

(i) it applies to an employee of the company who has completed 10 years of service or completed 40 years of age;

(ii) it applies to all employees (by whatever name called) including workers and executives of the company excepting Directors of the company;

(iii) the scheme of voluntary retirement has been drawn up to result in overall reduction in the existing strength of the employees of the company;

(iv) the vacancy caused by voluntary retirement is not to be filled up, nor the retiring employee is to be employed in another company or concern belonging to the same management.

(v) the amount receivable on account of voluntary retirement of the employee, does not exceed the amount equivalent to one and one-half months salary for each completed year of service or salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation.

In any case, the amount should not exceed rupees five lakhs in case of each employee;

(vi) the employee has not availed in the past, the benefit of any other voluntary retirement scheme.

Explanation : In this rule, the expression "salary" shall have the same meaning as is assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.

2 Substituted for "authority," by the IT (Fifth Amdt.) Rules, 1994, w.r.ef. 1-4-1994.

3 Inserted, by the IT (Fifth Amdt.) Rules, 1994, w.r.ef. 1-4-1994.

4 Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

5 Inserted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f 1-4-1994.

6 Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

7 Words "of the company or the authority, as the case may be," omitted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.

8 Substituted, by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994. Prior to substitution, it read as under :  
"(ii) it applies to all employees (by whatever name called) including workers and executives of the company or the authority, as the case may be, excepting Directors of the company;"

9 Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.ef. 24-11-2000.

10 Words "of the company or the authority, as the case may be" omitted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.

11 Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.ef. 24-11-2000.

12 Substituted for "one and one-half months" by the IT (Tenth Amdt.) Rules, 1994, w.e.f. 1-11-1994.

13 Inserted by IT (Tenth Amdt.) Rules, 2002 w.e.f. 19.06.2002.

**2BB. Prescribed allowances for the purposes of clause (14) of section 10. :-**

2BB.- <sup>1</sup>[Prescribed allowances for the purposes of clause (14) of section 10.

(1) 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.

(2) 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 :--

**TABLE**

<b>Sl. No.</b>	<b>Name of allowance</b>	<b>Place at which allowance is exempt</b>	<b>Extent to which allowance is exempt</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Any Special Compensatory Allowance in the nature of 2[Special Compensatory (Hilly Areas) Allowance] or High Altitude Allowance or Uncongenial Climate Allowance or Snow Bound Area Allowance	I (a) Manipur Mollan/ RH-2365. (b) Arunachal Pradesh (i) Kameng; (ii) North Eastern Arunachal Pradesh where heights are 9,000 ft. And above; (iii) Areas east or west of Siang and Subansiri sectors (c) Sikkim (i) Area North _NE-	3 [Rs. 800 per month]

East of line Chhaten LR 0105, Launchung LR 1902, pt. 4326 LW 1790, pt. 4349 LW 1479, pt. 3601 LW 1471 to mile 13 LW 1367 to Berluk LW 2253.

(ii) All other areas at 9,000 ft. And above

(d) Uttar Pradesh Areas of Harsil, Mana and Malari Sub-divisions and other areas of heights at 9,000 ft. And above.

(e) Himachal Pradesh

(i) All areas at 9,000 ft. And above ahead of line joining Puhkajakunzomla towards the bower.

(ii) Area ahead of line joining Karchham and Shigrila towards the bower.

(iii) All areas in Kalpa, Spiti, Lahul and Tisa.

(f) Jammu and Kashmir

(i) All areas from NR 396950 to NR 350850. NR 370790NR 311776 North of Shaikhra Village. North of Pindi Village to NR 240800.

(ii) Areas of Doda, Sank and other posts located in areas at a height of 9,000 ft. And above.

(iii) North of line Kud-Dudu and Bastttgarh, Bilwar, Batote and Patnitop.

(iv) All areas ahead of Zojila served by Road Srinagar-Zojila-Leh in Leh District.

(v) Gulmarg- All areas forward of line joining Anita Linyan 3309 \_ Kaunrali-2407.

(vi) Uri South \_ All areas forward of Kaunrali- Kandi 1810 Kustam 1505 \_ Sebasantra 1006 Changez 0507 \_ Jak 19904 Keekar 9704 jammu 9607 Neeta 9508.

(vii) BAAZ Kaiyan Bowl \_ All areas forward of Dulurja 9712- BAAZ 0317- Shamsheer 0416 including New Shamsheer

		<p>0615-Zorawar 1017 _  Malaugan Base 1027 _ Radha  0836 to Nastachun Pass 9847.  (viii) Tangdhar _ All areas  west of Nastachun Pass  Tangdhar Bowl and on  Shamshabari Range and  forward of it.  (ix) Karan and Machhal sub-  sectors- All areas along the  line Pharkiangali 0869 to Z  Gali 4376 and forward of  Shamshabari Range.  (x) Panzgam, Trehgam and  Drugmul.</p>	
		II. Siachen area of Jammu and Kashmir	4 [Rs. 7000 per month]
		III All places located at a height of 1,000 metres or more above the sea level, other than places specified at (I) and (II) above.	5 [Rs. 300 per month]
6 2	Any special Compensatory Allowance in the nature of Border. Area Allowance, Remote Locality Allowance or Difficult Area Allowance or Disturbed Area Allowance	<p>I. (a) Little Andaman, Nicobar and Narcondum Islands;  (b) North and Middle Andamans;  (c) Throughout Lakshadweep and Minicoy Islands;  (d) All places on or north of the following demarcation line : Point 14600 (2881) to Sala MS 2686- Matau MS 6777- Sakong MT 1379- Bamong- Khonawa MO 2803-Nyapin MO 7525-River Khru to its junction with the river Kamla MP- 2226-Talihayapuik MK 7410- Gshong MK 9749 - Yinki Yong NF 4324 - Damoroh MF 6208 - Ahinkolin NF 8811 - Kronli MG 2407 - Hanli NM 4096 Gurongon NM 4592 Loon NM 7579 - Mayuliang NM 0169 - Chawah NM 9943 - Kamphu NM 1125 - Point 6490 (NM 1493) Vijayanagar NSA - 486.  (e) Following areas in Himachal Pradesh: (i) Pangl Tehsil of Chamba District;  (ii) Following Panchayats and villages of Bharmour Tehsil of</p>	Rs. 1300 per month Rs. 1100/- per month Rs. 1050/- per month Rs. 750 per month Rs. 300/ per month Rs. 200 per month]

Chamba District (A)  
Panchayat Badgaun, Bajol,  
Deol Kugti Nayagam and  
Tundah. (B) Villages Ghatu of  
Gram Panchayat Jagat  
Kanarsi of Gram Panchayat  
Cauhata.

(iii) Lahul and Spiti District;

(iv) Kinnaur district: (A)  
Asrang, Chitkul and Hango  
Kuno Charang Panchayats  
(B) 15/20 Area comprising the  
Gram Panchayats of Chhota  
Khamba, Nathpa and Rupi.  
(C) Pooh sub-Division  
excluding the Panchayat Areas  
specified above.

(v) 15/20 Area of Rampur  
Tehsil comprising of  
Panchayats of Koot, Labana-  
Sadana, Sarpara and Chandi  
Branda of Shimla District.

(vi) 15/20 Area of Nirmand  
Tehsil, comprising the Gram  
Panchayats of Kharga,  
Kushwar and Sarga of Kullu  
District.

(f) Chhimtuipui District of  
Mizoram and areas beyond 25  
km from Lunglei town in  
Lunglei District of Mizoram.

(g) following areas in Jammu  
and Kashmir :-

(i) Niabat Bani, Lihi, Malhar  
and Macchodi of Kathua  
District;

(ii) Dudu Basantgarh Lander  
Bhamag Illaqa, Thakrakote  
and Nagote of Udhampur  
District.

(iii) All areas in Tehsil Mahore  
except those specified at III(f)

(i) below in Udhampur  
District; (iv) Illaqa of Padder  
and Niabat Nowgaon in  
Kishtwar Tehsil of Doda  
District;

(v) Leh District;

(vi) Entire Gurez - Nirabat,  
Tangdar Sub-Division and  
Keran Illaqa of Baramulla  
District.

(h) Following areas of Uttar Pradesh:- (i) Chamoli District;

(ii) Pithoragarh District;

(iii) Uttarakashi District; (i) Throughout Sikkim State II. Installations in the continental shelf of India and the Exclusive Economic Zone of India. III. (a) Throughout Aruanchal Pradesh other than areas covered by those specified at I(d) above.

(b) Throughout Nagaland State.

(c) South Andaman (including Port Blair).

(d) Throughout Lunglei District (excluding areas beyond 25 km from Lunglei town) of Mizoram.

(e) Dharmanagar, Kailasahar, Amarpur and Khowai in Tripura.

(f) Following areas in Jammu and Kashmir:-

(i) Areas up to Goel from Kamban side and areas upto Arnas from Keasi side in Tehsil Mahore of Udhampur District;

(ii) Matchill in Barmulla District.

(g) Following areas in Himchal Pradesh:- (i) Bharmour Tehsil, excluding Panchayats and villages covered by those specified at I(e)(ii) above of Chamba District.

(ii) Chhota Bhangal and Bara Bhangal area of Kangra District;

(iii) Kinnaur District other than areas specified at I(e)(iv);

(iv) Dodra-Kawar Tehsil, Gram Panchayats of Darakali in Rampur, Kashapath Tehsil and Munish, Ghori Chaibis of Pargana Sarahan of Shimla District. IV.

(a) Throughout Aizawal District of Mizoram;

(b) Throughout Tripura except

areas those specified at III(e);

(c) Throughout Manipur;

(d) Followings ares of Himachal Pradesh: (i) Jhandru Panchayat in Bhatiyat Tehsil, Churah Tehsil, Dalhousie Town (including Banikhet proper) of Chamba District; (ii) Cuter Seraj (excluding Village of Jakat-Khana and Burow in Nirmand Tehsil of Kullu District; (iii) Following areas of Mansi District: (A) Chhuhar Valley (Joginder nagar Tehsil); (B) Bagra, Chhatri, Chhotdhar, Garagushain, Gatoo, Gharyas, Janjehli, Jaryar, Johar Kalhani Kalwan, Kholanal, Loth, Silibagi, Somachan, Thachdhar, Thachi and Thana Panchayats of Thunag Tehsil; (C) Binga, Kamlah, Saklana, Tanyar and Tara-kholah, Panchayats of Dharampur Block; (D) Balidhur, Bagra, Gopalpur, Khajol, Mahog, Mehudi, Manj, Pekhi, Sainj, Sarahan and Teban, Panchayats of Karsog Tehsil; (E) Bohi, Batwara, Dhanyara, Paura-Kothi, Seri and Shoja, Panchayats of Sundernagar Tehsil.

(iv) Following areas and officers of Kangara District: (A) Dharamsala town and Womens ITI, Dari, Mechanical Workshop, Ramnagar; Child Welfare and Twon Country Planning Offices, Sakoh; CRSF Office at lower Sakoh; Kangra Milk Supply Scheme, Shamanagar; Tea Factory, Dari; Forest Corporation Office, Shamnagar; Tea Factory, Dari; Settlement Office, Shamnagar and Binwa Project, Shamnagar. Offices



located outside the Municipal limit of Dharamshala town but included in Dharamshala town for purposes of eligibility to special Compensatory (Remote Locality) Allowance;

(B) Palampur town, including HPKVV Campus at Palampur and H.P. Krishi Vishvavidyala Campus; Cattle Development Office/Jersey Farm, Banuri; Sericulture Office/Indo-German Agriculture Workshop/ HPPWD Division, Bundla; Electrical Sub-Division, Lohna; D.P.O. Corporation, Bundla and Electrical HPSEE Division, Ghuggar offices located outside the municipal limits of Palampur town but included in Palampur town for the purpose of above allowance.

(v) Chopal Tehsil; Ghoris, Panjgaon, Patsnu, Naubis and Teen Koti of Pargana Sarahan; Deothi Gram Panchayat of Taklesh Area; Pargana Barabis; Kasba Rampur and Ghori Nog Pargana Rampur of Rampur Tehsil of Shimla District and Shimla Town and its suburbs (Dhalli, Jatog, Kasumpti, Mashobra, Taradevi and Tutu)

(vi) Panchayats of Bani, Bakhali (Pachhad Tehsil), Bharog Bheneri (Paonata Tehsil), Birla (Nahan Tehsil), Dibber (Pachhad Tehsil) of Thanan Kasoga (Nahan Tehsil) in Sirmour District and Thansgiri Tract of Sirmour District;

(vii) Mangal Panchayat of Solan District;

(e) Following areas in Jammu and Kashmir:- (i) Areas in Poonch and Rojouri Districts excluding the towns of Poonch and Rajouri and Sunderbani

		<p>and other Urban areas in the two districts;</p> <p>(f) Following areas in Jammu and Kashmir:- Areas not included in I(g), III(f) and IV(e) above, but which are within a distance of 8km from the line of actual control or at places which may be declared as qualifying for Border Allowance from time to time by the State Government for their own staff V. Jog Falls in Shimoga District in Karnataka.</p> <p>VI. (a) Throughout the State of Himachal Pradesh other than areas covered by those specified in I(e), III(g) and IV(d)</p> <p>(b) Throughout the State of Assam and Meghalaya</p>	
3.	7[Special Compensatory (Tribal Areas/Schedule Areas/ Agency Areas) Allowance]	<p>(a) Madhya Pradesh</p> <p>(b) Tamil Nadu</p> <p>(c) Uttar Pradesh</p> <p>(d) Karnataka</p> <p>(e) Tripura</p> <p>(f) Assam</p> <p>(g) West Bengal</p> <p>(h) Bihar</p> <p>(i) Orissa</p>	8 [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 percent of such allowance up to a maximum of 22[Rs. 10,000 per month]
5.	Children Education Allowance	Whole of India	10 [Rs. 100 per month per child] up to a maximum of two children.
6.	Any allowance granted to an employee to meet the	Whole of India	11 [Rs. 300 per month]

	hostel expenditure on his child		per child] up to a maximum of two children.
7.	Compensatory Field Area Allowance	<p>(a) Following areas in Arunachal Pradesh:-</p> <p>(i) Tirap and Changlang Districts;</p> <p>(ii) All areas North of line joining point 4448 in LZ 4179 _ Nukme Dong MS 3272 _ Sepla MT 2969 _ Palin MO 9213 _ Daporijo NR 5841 _ Along NL 1273 Hunli NM 3196- Tidding Tuwi MT 6369 _ Hayuliang NN 0170- Tawaken MT 8136 _ Champai Bun NM 8814, all inclusive.</p> <p>(b) Throughout Manipur and Nagaland.</p> <p>(c) Following areas in Sikkim:- All areas North and North East of line joining Phalut LV 4750- Gezing LV 7059- Mangkha LV 6160- Penlang LaLW 0666- Rangli LW 1448-BP 1 in LW 2453 ON Indo _ Bhutan Border. all inclusive.</p> <p>(d) Following areas in Himachal Pradesh: All areas East of line joining Umasila NV 3951 _ Udaipur NY 8663- Manikaran SB 2300-Pir Parbati Pass TA 1459- Taranda TA 2335- Barasua-Pass TA 8801, all inclusive.</p> <p>(e) Following areas in Uttar Pradesh:- All areas North and North-East of line joining Barasua Pass Gangnani TG 1362-Govind Ghat TG 0937- Tapovan TH 1822-Musiari TN 8982-Relaged TO 2466-all inclusive.</p> <p>(f) Following areas in Jammu and Kashmir:-</p> <p>(i) Areas North and East of line joining Zojila MU 3036 - Baralachala NE 6672 along the great Himalayan Range, all</p>	12 [Rs. 2,600 per month]

		<p>inclusive;</p> <p>(ii) All areas West of Line joining point 1556 in NR 5470 _ Gulmarg MT 3105- Naushara MY 3105- Ringapat MT 2133- Handwara MT 2043- Laingyal MT 2339- Point 8405 in NG 4565 - North of line joining point 8403 Bunakut MT 5453 Razan NN 2239 - Zojila, all inclusive;</p> <p>(iii) All areas West of line joining tip of Chicken Neck RD 7073 _ Canal junction RD 6364-Mawa Brahmana RD 6183- Chauki RD 6393 - Road junction RD 6499- Baramgala MY 3854 _ Point 1556 in NR 5470. all inclusive.</p>	
8.	Compensatory Modified Field Area Allowance	<p>(a) Following areas in Punjab and Rajasthan:- Areas West of line joining Jessai, Barmer, Jaisalmer, Pokharan, Udasar, Mahajan Ranges, Suratgarh, Lalgah Jattan, Abohar, Govindgarh, Fazilka, Jandiala Guru, Moga, Dholewal, Deas, Bir Sarangwal, Hussainiwala, Dera Baba Nanak, Laisain pulge upto the international border, all inclusive.</p> <p>(b) Following areas in Haryana:- Satrod (Hissar).</p> <p>(c) Following areas in Himachal Pradesh: Areas North of line joining Narkhanda. keylong upto Field Area line/ High Altitude line. (</p> <p>d) Following areas in Arunachal Pradesh and Assam:-</p> <p>(i) Cachar and North Cachar and District of Assam including Silchar;</p> <p>(ii) All areas of Arunachal Pradesh and Assam North of river Brahmaputra except Tejpur-Misamari and Field Areas.</p> <p>(e) Throughout Mizoram and Tripura.</p>	13 [Rs. 1,000 per month]

		<p>(f) Following areas in Sikkim and West Bengal:- Areas Northwards of line joining Sevoke LV 9112, Burdong LV 985 - Sherwani LV 9453 _ Bagrakot LW 0113- Damdim LW 1109 _ New Mal- Hasimara-QB 7894 Ganga Ram Tea Estate QA 1377 upto the High Altitude line/ field area line/ international border, all inclusive.</p> <p>(g) Following areas in Uttar Pradesh:- Areas North of line joining Uttarkashi. Karan Prayag, Gauchar, Joshimath, Chamoli, Rudra Prayag, Askote, Charamgad, Dharchula, Kausani and Narendra Nagar upto international border, all inclusive.</p> <p>(h) Following areas in Jammu and Kashmir:</p> <p>(i) Areas West of line joining Pattan, Baramulla, Kupwara, Drugmulla, Panges, Mankes Buniyar, Pantha Chowk, Khanabal, Anantnag, Khundru and Khru upto the existing High Altitude line, all inclusive;</p> <p>(ii) Areas West of line joining _ BP _19. Brahmanadi-Bari, Jindra, Dhansal, Katra, Sanjhi Chatt, Batote Patni Top, Ram ban and Banihal upto the exiting High altitude line, all inclusive.</p>	
9.	Any special allowance in the nature of counter-insurgency allowance granted to the members of armed fores operating in areas away from their permanent locations for a period of more than 30 days	Whole of India	14 [Rs. 3,900 per month]
15 10.	Transport allowance granted to an employee 16[other than an employee referred to in serial number	Whole of India	23 [Rs.1600 per month]

	11] to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty.		
17[11.	Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his residence and the place of his duty.	Whole of India	24 [Rs.3200 per month]]
18 [12.	Underground allowance granted to an employee who is working in uncongenial, unnatural climate in underground 21[***] mines.	Whole of India.	Rs.800 per month.]
19 [13.	Any special allowance in the nature of high altitude (uncongenial climate) allowance granted to the member of the armed forces operating in high altitude areas	(a) For altitude of 9,000 to 15,000 feet (b) For altitude of 15,000 feet	Rs. 1,060 per month Rs. 1,600 per month
14.	Any special allowance granted to the members of the armed forces in the nature of special compensatory highly active field area allowance	Whole of India	Rs. 4,200 per month]
20 [15.	Any special allowance granted to the member of the armed forces in the nature of Island (duty) allowance	Andaman & Nicobar and Lakshadweep Group of Islands	Rs. 3,250 per month:]

1. Inserted by the IT (Eighth Amdt.) Rules, 1995, w.e.f. 1-7-1995.

2. Substituted for "Composite Hill Compensatory Allowance" by the IT (Third Amdt.) Rules 2000, w.r.ef. 1-8-1997

- 3 Substituted for "Rs. 600", by the IT (Third Amdt.) Rules, 2000, w.r.ef. 1-8-1997.
4. Substituted for "Rs. 1200" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
5. Substituted for "Rs. 150" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
6. Substituted, by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
7. Substituted for "Tribal Area Allowance" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
8. Substituted for "Rs. 100", by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
9. Substituted for "Rs. 3,000" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
10. Substituted for "Rs. 50", by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
11. Substituted for "Rs. 150", by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
12. Substituted for "Rs. 1,300" by the IT (Twenty-second Amdt.) Rules, 2000, w.r.e.f. 1-5-1999. Earlier "Rs. 1,300" was substituted for "Rs. 975" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
13. Substituted for "Rs. 500" by the IT (Twenty-second Amdt.) Rules, w.r.e.f. 1-5-1999. Earlier "Rs. 500" was substituted for "Rs. 375" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
14. Substituted for "Rs. 1,300" by the IT (Twenty-second Amdt.) Rules, 2000, w.r.e.f. 1-5-1999. Earlier "Rs. 1,300" was substituted for "Rs. 975" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.
15. Inserted by the IT (Seventh Amdt.) Rules, 1998, w.r.e.f. 1-8
16. Inserted by the IT ((Twenty-ninth Amdt.) Rules, 1999, w.r.e.f. 1-8-1997.
17. Inserted by the IT (Twenty-ninth Amdt.) Rules, 1999, w.r.e.f. 1-8-1997.
18. Inserted by the IT (Fourth Amdt.) Rules, 2000, w.e.f. 24-4-2000.
19. Inserted by the IT (Twenty-second Amdt.) Rules, 2000, w.r.e.f. 1-5-1999.

20. Inserted by the IT (Twenty-first Amdt.) Rules, 2000, w.r.e.f. 29-2-2000.

21. Omitted by the IT (Thirteenth Amdt.) Rules, 2007, prior to omission it read as "coal".

22. Substituted by the Income-tax (Eighth Amendment) Rules, 2010 vide Notification No. 85/2010 dated 22.11.2010 w.e.f. 01.09.2008 for the following : - "9[Rs. 6,000 per month]"

23. Substituted by the Income-tax (6th Amendment) Rules, 2015 vide Notification No. 39/2015 dated 13.04.2015 w.e.f. 01.04.2015 for the following : - "Rs. 800 per month"

24. Substituted by the Income-tax (6th Amendment) Rules, 2015 vide Notification No. 39/2015 dated 13.04.2015 w.e.f. 01.04.2015 for the following : - "Rs. 1,600 per month"

**2BBA. Circumstances and conditions for the purposes of clause (19) of section 10. :-**

(1) For the purposes of clause (19) of section 10, the circumstances of death of a member of the armed forces (including para-military forces) of the Union in the course of operational duties shall be the following, namely :

(i) acts of violence or kidnapping or attacks by terrorists or anti-social elements;

(ii) action against extremists or anti-social elements;

(iii) enemy action in international war;

(iv) action during deployment with a peace keeping mission abroad;

(v) border skirmishes;

(vi) laying or clearance of mines including enemy mines as also mine sweeping operations;

(vii) explosions of mines while laying operationally oriented mine-fields or lifting or negotiation mine-fields laid by the enemy or own forces in operational areas near international borders or the line of control;

(viii) in the aid of civil power in dealing with natural calamities and rescue operations;

(ix) in the aid of civil power in quelling agitation or riots or revolts by demonstrators.

(2) It shall be certified by the Head of the Department where the deceased member of the armed forces (including para-military forces) last served, or the service headquarters, as the case may



be, that the death of such member has occurred in the course of operational duties in circumstances mentioned in sub-rule (1).

**2BBB. Percentage of Government Grant for considering university, hospital etc. as substantially financed by the Government for the purposes of clause (23C) of section 10.**

:-

<sup>1</sup>[2 B B B . Percentage of Government Grant for considering university, hospital etc. as substantially financed by the Government for the purposes of clause (23C) of section 10.

For the purposes of sub-clauses (iiiab) and (iiiac) of clause (23C) of section 10, any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds fifty percent. of the total receipts including any voluntary contributions, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year.]

1. Inserted by the Income-tax (13th Amendment) Rules, 2014 vide Notification No. 79/2014 dated 12.12.2014.

**2BC. Amount of annual receipts for the purposes of sub-clauses (iiiad) and (iiiie) of clause (23C) of section 10. :-**

2BC.- <sup>1</sup>[Amount of annual receipts for the purposes of sub-clauses (iiiad) and (iiiie) of clause (23C) of section 10.

(1) For the purposes of sub-clause (iiiad) of clause (23C) of section 10, the amount of annual receipts on or after the 1st day of April, 1998, of any university or other educational institution, existing solely for educational purposes and not for purposes of profit, shall be one crore rupees.

(2) For the purposes of sub-clause (iiiie) of clause (23C) of section 10, the amount of annual receipts on or after the 1st day of April, 1998, of any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, shall be one crore rupees. Application under section 10(23) and under sub-clauses (iv) and (v) of section 10

clause (23C)

1 Inserted by the IT (Eighteenth Amdt.) Rules, 1998, w.e.f. 12-10-1998.

**2C. Guidelines for approval under sub-clauses (iv) and (v) of clause (23C) of section 10. :-**

<sup>2</sup>[2C. Guidelines for approval under sub-clauses (iv) and (v) of clause (23C) of section 10.

(1) The prescribed authority under sub-clauses (iv) and (v) of clause (23C) of section 10 shall be the Chief Commissioner or Director General, to whom the application shall be made as provided in sub-rule (2).

<sup>3</sup>[Provided that on or after the specified date, the prescribed authority under sub-clauses (iv) and (v) of clause (23C) of section 10 shall be the Principal Commissioner or Commissioner, to whom the application shall be made as provided in sub-rule (2).]

(2) The application to be furnished under sub-clauses (iv) and (v) of clause (23C) of section 10 by a fund, trust or institution shall be in Form No. 56.

<sup>4</sup>[Explanation.-For the purposes of this rule,-

(i) "Chief Commissioner or Director General" means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority for the purposes of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10 in relation to any fund or trust or institution;

(ii) "Principal Commissioner or Commissioner" means the Principal Commissioner or Commissioner whom the Central Board of Direct Taxes may, authorise to act as prescribed authority for the purposes of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10 in relation to any fund or trust or institution;

(iii) "specified date" means the date which the Central Board of Direct Taxes may, by notification in the Official Gazette, specify in this behalf.]]

1. Inserted by the IT (Ninth Amdt.) Rules, 1989, w.e.f. 28-8-1989.

2. Substituted by the Income-tax (Sixth Amendment) Rules, 2007 vide notification No. 194/2007 dated 30.05.2007 w.e.f. 01.06.2007. Prior to substitution it read as:

"2C.- 1[Application under section 10(23) and under sub-clauses (iv) and (v) of section 10(23C). (1) The prescribed authority under

clause (23) and sub-clauses (iv) and (v) of clause (23C) of section 10 shall be the Director General (Income-tax Exemptions), to whom the applications shall be made as provided in sub-rules (2) and (3).

(2) The Form in which an application is to be furnished under clause (23C) of section 10 by a sports association or institution shall be in Form No. 55.

(3) The Form of application to be furnished under sub-clauses (iv) and (v) of clause (23C) of section 10 by a fund, trust or institution shall be in Form No. 56.]."

3. Inserted by the Income-tax (11th Amendment) Rules, 2014 vide Notification No. 61/2014 dated 10.11.2014.

4. Substituted by the Income-tax (11th Amendment) Rules, 2014 vide Notification No. 61/2014 dated 10.11.2014 for the following :

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"Explanation. For the purposes of this rule, Chief Commissioner or Director General means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority for the purposes of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10 in relation to any fund or trust or institution."

**2CA. GuideLines for approval under sub-clauses (vi) and (via) of clause (23C) of section 10. :-**

2CA.- <sup>1</sup>[GuideLines for approval under sub-clauses (vi) and (via) of clause (23C) of section 10.

(1) The prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Chief Commissioner or Director General, to whom the application shall be made as provided in sub-rule (2).

<sup>5</sup>[Provided that on or after the specified date the prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Principal Commissioner or Commissioner, to whom the application shall be made as provided in sub-rule (2).]

(1A) The prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) for applications received prior to 3rd day of April, 2001.

<sup>3</sup>[Provided that in case of applications received prior to 3rd day of April, 2001 where no order has been passed granting approval or rejecting the application as on 31st day of May, 2007, the prescribed authority under sub-clauses (vi) and (via) of clause

(23C) of section 10 shall be the Chief Commissioner or Director General.]

(2) An application for approval shall be made in Form No. 56D by any university or other educational institution or any hospital or other medical institution referred to in sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.

(3) <sup>2</sup>[The approval of the Central Board of Direct Taxes or Chief Commissioner or Director General, as the case may be, granted before the 1st day of December, 2006 shall at any one time have effect for a period not exceeding three assessment years.]

<sup>6</sup>[Explanation.-For the purposes of this rule,-

(i) "Chief Commissioner or Director General" means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority for the purposes of sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 in relation to any fund or trust or institution;

(ii) "Principal Commissioner or Commissioner" means the Principal Commissioner or Commissioner whom the Central Board of Direct Taxes may, authorise to act as prescribed authority for the purposes of sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 in relation to any fund or trust or institution;

(iii) "specified date" means the date which the Central Board of Direct Taxes may, by notification in the Official Gazette , specify in this behalf.]

1 Substituted by the I.T. (Seventeenth Amendment) Rules 2001, w.e.f. 3-8-2001. Prior to its substituted the Rule stood as under :

"(1) The prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the [Chief Commissioner], to whom the application shall be made as provided in sub-rule (2),

(2) An application for approval shall be made in Form No. 56D by any university or other educational institution or any hospital or other medical institution referred to in sub-clause (vi) or sub-clause (via) of clause (23C) of section 10

(3) The approval of the [Chief Commissioner] shall at any one time have effect for a period not exceeding three assessment years.]

Explanation.--For the purposes of this rule, the "Chief Commissioner" means the Chief Commissioner to whom the Assessing Officer having jurisdiction to assess the university or other educational institutions or any hospital or other medical institutions referred to in sub-clattse(vi) or sub-clause (via) of

clause (23C) of section 10 of the Act is subordinate."

2. Substituted by the I.T. (Fourteenth Amendment) Rules 2006, dated 24-11-2006. Prior to its substituted the Rule stood as under :  
(3) The approval of the Central Board of Direct Taxes or Chief Commissioner or Director General, as the case may be, shall at any one time have effect for a period not exceeding three assessment years.

3. Inserted by the Income-tax (Fifth Amendment) Rules, 2007 vide notification no. 193/2007 dated 30.05.2007 w.e.f. 01.06.2007.

4. Substituted by the Income-tax (Fifth Amendment) Rules, 2007 vide notification no. 193/2007 dated 30.05.2007 w.e.f. 01.06.2007. Prior to substitution it read as:

"Explanation.--For the purposes of this rule, "Chief Commissioner or Director General" means the Chief Commissioner or Director General to whom the Assessing Officer having jurisdiction to assess the university or other educational institutions or any hospital or other medical institutions referred to in sub-clause (vi) and sub-clause (via) of clause (23C) of Section 10 of the Act is subordinate."

5. Inserted by the Income-tax (11th Amendment) Rules, 2014 vide Notification No. 61/2014 dated 10.11.2014.

6. Substituted by the Income-tax (11th Amendment) Rules, 2014 vide Notification No. 61/2014 dated 10.11.2014 for the following :

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"<sup>4</sup>[Explanation. For the purposes of this rule, Chief Commissioner or Director General means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority, for the purposes of sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, in relation to any university or other educational institution or any hospital or other medical institution.]"

## **2D. Guidelines for approval under clause (23F) of section 10. :-**

2D.- <sup>1</sup>[Guidelines for approval under clause (23F) of section 10.

(1) For the purposes of clause (23F) of section 10, the prescribed authority shall be the Director of Income-tax (Exemptions) having jurisdiction over the venture capital fund or the venture capital company who makes application for approval under sub-rule (2).

(2) An application for approval shall be made in Form No.56A by a venture capital fund or a venture capital company to the Director of Income-tax (Exemptions) referred to in sub-rule (1).

(3) Every application under sub-rule (2) may be made in any

previous year in which any income by way of dividend or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking shall not be included in computing the total income of such venture capital fund or venture capital company.

(4) Every application for approval under sub-rule (2) shall be accompanied by the following documents, namely :--

(a) a copy of trust deed or certificate of incorporation under Companies Act, 1956 (1 of 1956); balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made;

(c) Forms 56B and 56C duly filled in and signed by the applicant; and

(d) a copy of the certificate of registration issued by the Securities and Exchange Board of India.

(5) The Director of Income-tax (Exemptions) shall approve the venture capital fund or the venture capital company, as the case may be, subject to the following conditions, namely:--

(a) the venture capital fund or the venture capital company, as the case may be, is registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992):

(b)<sup>2</sup>[\*\*\*]

(c)<sup>2</sup>[\*\*\*]

(d) a venture capital fund or a venture capital company, as the case may be, shall not invest more than 3[twenty] per cent of its total monies raised or total paid-up share capital in one venture capital undertaking;

(e) a venture capital fund or a venture capital company, as the case may be, shall not make investment of more than forty per cent in the equity capital of one venture capital undertaking;

(f) every venture capital fund and venture capital company, shall maintain books of account and get such books audited by an accountant, as defined in Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Director of Income-tax (Exemptions) before the due date of filing of the return under sub-section (1) of section 139.

(6) The Director of Income-tax (Exemptions) shall pass an order in writing granting approval or refusing approval to the venture capital fund or venture capital company, as the case may be :

Provided that the Director of Income-tax (Exemptions) shall not

refuse the approval except in concurrence with the Director-General of Income-tax (Exemptions):

Provided further that every venture capital fund or venture capital company, as the case may be, shall be given an opportunity of being heard before passing an order under this rule.

(7) The Director of Income-tax (Exemptions) shall withdraw the approval granted under sub-rule (6) in the following circumstances, namely :--

(a) if the venture capital fund or the venture capital company--

(i) fails to make investments in the manner specified in sub-rule (5);

(ii) invests more than 3[twenty]per cent of the monies raised by a venture capital fund or 3[twenty] per cent of paid-up share capital of the venture capital company, as the case may be, in one venture capital undertaking;

(iii) makes an investment of more than forty per cent in the equity capital in one venture capital undertaking; fails to maintain books of account and get such accounts audited by an accountant or fails to file the audit report required in clause (f) of sub-rule (5);

(iv) violates the provisions of the Act or rules made there under;

(b) if the certificate of registration granted under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), to a venture capital fund or a venture capital company is suspended or cancelled by the Securities and Exchange Board of India.

1. Inserted by the IT (Eleventh Amdt.) Rules, 1995, w.e.f. 18-7-1995.

2. Clauses (b) and (c) omitted by the IT (Twenty-sixth Amdt.) Rules, 1998, w.e.f. 1-4-1999. Prior to its omission clauses (b) and (c), as inserted by the IT (Eleventh Amdt.) Rules, 1995, w.e.f. 18-7-1995, reads as under:

"(b) every venture capital fund invests an amount not less than eighty per cent of its total monies (hereinafter referred to as such monies) raised for investments by way of acquiring equity shares of the venture capital undertakings in the following manner, namely:-

(i) twenty per cent or more of such monies shall be invested during or before the end of the previous year in which the application is made under sub-rule (3) by way of acquiring equity shares of the venture vapital undertakings;

(ii) fifty per cent or more of such monies [including the investments

referred to in sub-clause (i) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which investment of twenty per cent referred to in sub-clause (i) has been made, by way of acquiring equity shares of the venture capital undertakings;

(iii) eighty per cent or more of such monies [including the investments, referred to in sub-clause (ii) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which fifty per cent investment referred to in sub-clause (ii) has been made, by way of acquiring equity shares of the venture capital undertakings;

(c) every venture capital company invests an amount not less than eighty per cent of its total paid-up capital (hereinafter referred to as such capital) by way of acquiring equity shares of the venture capital undertakings in the following manner, namely :--

(i) twenty per cent or more of such capital shall be invested, during or before the end of the previous year in which the application is made under sub-rule (3), by way of acquiring equity shares of the venture capital undertaking;

(ii) fifty per cent or more of such capital [including the investments referred to in sub-clause (i) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which investment of twenty per cent referred to in sub-clause (i) above has been made, by way of acquiring equity shares of the venture capital undertakings;

(iii) eighty per cent or more of such capital [including the investments referred to in sub-clause (ii) above] shall be invested, during or before the end of the previous year in which fifty per cent investment referred to in sub-clause (ii) has been made, by way of acquiring equity shares of the venture capital undertakings;"

3. Substituted for "five" by the IT (Sixth Amdt.) Rules, 1997, w.e.f. 28-4-1997.

## **2DA. Guidelines for approval under clause (23FA) of section 10.(1) :-**

2DA.- <sup>1</sup>[Guidelines for approval under clause (23FA) of section 10.  
(1)

An application for approval shall be made in Form No. 56AA by a venture capital fund or a venture capital company to the Central Government.

(2) Every application under sub-rule (1) may be made in any previous year in which any income by way of dividend or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking shall not be included in computing the total



income of such venture capital fund or venture capital company.

(3) Every application for approval under sub-rule (1) shall be accompanied by the following documents, namely :--

(a) A copy of the trust deed registered under the provision of the Registration Act, 1908 or a certificate of incorporation under the Companies Act, 1956 (1 of 1956) ;

(b) Balance sheets and profit and loss accounts for three previous years immediately preceding the previous year in which the application is made;

(c) Forms 56BA and 56CA duly filled in and signed by the applicant; and

(d) A copy of the certificate of registration issued by the Securities and Exchange Board of India under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992)

.

(4) The Central Government may approve the venture capital fund or the venture capital company, as the case may be, subject to the following conditions, namely:--

(a) A venture capital fund or a venture capital company, as the case may be, is registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) ;

(b) A venture capital fund or a venture capital company, as the case may be, shall not invest more than twenty-five per cent of its total monies raised or total paid-up share capital in one venture capital undertaking;

(c) Every venture capital fund and venture capital company, shall maintain books of account and get such books audited by an accountant, as defined in Explanation to sub-section (2) of section 288 of the Act and, furnish the report of such audit duly signed and verified by such accountant to the Central Government before the due date of filing of the return under sub-section (1) of section 139 of the Act.

(5) The Central Government may pass an order in writing granting approval or refusing approval to the venture capital fund or venture capital company, as the case may be :

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the venture capital fund or the venture capital company.

(6) The approval of the Central Government under sub-rule (5) shall at any one time has effect for such assessment year or years, not exceeding three assessment years.

(7) The Central Government shall withdraw the approval granted under sub-rule (5) in the following circumstances :--

(a) If the venture capital fund or the venture capital company--

(i) Fails to make investments in the manner specified in sub-rule (4) ;

(ii) Invests more than twenty-five per cent of the monies raised by a venture capital fund or twenty-five per cent of paid-up share capital of the venture capital company, as the case may be, in one venture capital undertaking;

(iii) Fails to maintain books of accounts and get such accounts audited by an accountant or fails to file the audit report required in clause (d) of sub-rule (4) ;

(iv) Violates the provisions of the Act or rules made there under;

(b) If the certificate of registration granted under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) , to a venture capital fund or a venture capital company is suspended or cancelled by the Securities and Exchange Board of India.

1. Inserted by the IT (Thirty-fourth Amendment) Rules, 1999, w.e.f. 27-12-1999.

## **2E. Guidelines for approval under clause (23G) of section 10 :-**

<sup>1</sup>[2E. Guidelines for approval under clause (23G) of section 10. -

(1) An application for approval shall be made on or after the 1st day of June 1998 in Form No. 56E by an enterprise to the Central Government.

(2) Every application for approval made under sub-rule (1) shall be accompanied by the following documents, namely: -

(a) a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956) or a copy of the document evidencing the constitution of the enterprise and its legal status;

(b) a copy of the project report or agreement in respect of the eligible business duly approved by the Central Government or any State Government or any local authority or any other statutory body, as the case may be;

(c) balance sheets and profit and loss accounts for the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made :

Provided that an application made under sub-rule (1) may be accompanied by the balance sheets and profit and loss accounts for less than three previous years where an enterprise has been formed at any time during the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made.

(3) The Central Government shall approve an enterprise for the purposes of clause (23G) of section 10, if such enterprise is wholly engaged in the eligible business.

(4) The Central Government may, before approving an enterprise, call for such documents (including audited annual accounts) or information from the enterprise, as it thinks necessary in order to satisfy itself that such enterprise is wholly engaged in the eligible business and that Government may also make such enquiries as it may deem necessary in this behalf.

(5) The Central Government shall pass an order in writing while granting approval or refusing approval to the enterprise:

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

(6) Every enterprise approved under sub-rule (5) shall maintain books of account and get such books audited by an accountant, as defined in Explanation to subsection (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Chief Commissioner of Income-tax under whose jurisdiction it is assessed, before the due date of filing of the return under subsection (1) of section 139.

(7) Where the enterprise,-

(a) ceases to carry on the eligible business; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6); or

(c) fails to furnish the audit report as required by sub-rule (6);

the Chief Commissioner of Income-tax shall, after making such enquiries as he may deem necessary, furnish a report on the circumstances referred to in clause (a), (b) and (c) to the Central Government, within six months from the due date of filing of return under sub-section (1) of section 139.

(8) The Central Government, on being satisfied that any or all of the circumstances referred to in clauses (a), (b) and (c) of sub-rule (7) exist, shall withdraw the approval granted under sub-rule (5).

Provided that no order withdrawing the approval shall be passed unless an opportunity of being heard has been given to the

enterprise.

Explanation: For the purposes of this rule, -

(a) the expression "enterprise" means any enterprise wholly engaged in the eligible business ;

(b) the expression "eligible business" means the business referred to in sub-section(4) of section 80 IA or a housing project referred to in sub-section (10) of section 80- IB and which fulfils the conditions specified in the said sub-sections or a hotel project or a hospital project as defined in clauses (g) and (h) of Explanation 1 to clause (23G) of Section 10.]

1. Substituted by IT (Sixth Amdt), Rules,2004 w.e.f. 12.04.2004, which was earlier, inserted by the IT (Eighteen th Amdt.) Rules, 1998, w.e.f. 12-10-1998. Prior to Substitution the text of Rule 2E read as under:

"2E.- Guidelines for approval under clause (23G) of section 10.(1) An application for approval shall be made on or after the 1st day of June, 1998 in Form No. 56E by an enterprise to the Central Government.

(2) Every application for approval made under sub-rule (1) shall be accompanied by the following documents, namely :--

(a) a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956) or a copy of the document evidencing the constitution of the enterprise and its legal status;

(b) a copy of the project report or agreement in respect of the infrastructure facility duly approved by the Central Government or any State Govern-ment or any local authority or any other statutory body, as the case may be;

(c) balance sheets and profit and loss accounts for the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made :

Provided that an application made under sub-rule (1) may be accompa-nied by the balance sheets and profit and loss accounts for less than three previous years where an enterprise has been formed at any time during the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made.

(3) The Central Government shall approve an enterprise for the purposes of clause (23G) of section 10, if such enterprise is wholly engaged in the business of developing, maintaining and operating any infrastructure facility.

(4) The Central Government may, before approving an enterprise, call for such documents (including audited annual accounts) or information from the enter-prise, as it thinks necessary in order to satisfy itself that such enterprise is wholly engaged in the business

of developing, maintaining and operating an infrastructure facility and that Government may also make such enquiries as it may deem necessary in this behalf.

(5) The Central Government shall pass an order in writing while granting approval or refusing approval to the enterprise :

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

(6) The approval of the Central Government under sub-rule (5) shall at any one time have effect for a period not exceeding three assessment years.

(7) Every enterprise approved under sub-rule (5) shall maintain books of account and get such books audited by an accountant, as defined in Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Central Government before the due date of filing of the return under sub-section (1) of section 139.

(8) The Central Government shall withdraw the approval granted under sub-rule (5) if the enterprise--

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7); or

(c) fails to furnish the audit report as required by sub-rule (7).

Explanation : For the purposes of this rule,--

(a) the expression "enterprise" means any enterprise wholly engaged in the business of developing, maintaining and operating any infrastructure facility;

(b) the expression "infrastructure facility" shall have the meaning assigned to it in clause (c) of Explanation to clause (23G) of section 10."

## **2F. Guidelines for setting up an Infrastructure Debt Fund for the purpose of exemption under clause(47) of section 10 :-**

<sup>1</sup>[(1) The Infrastructure Debt Fund shall be set up as a Non-Banking Financial Company conforming to and satisfying the conditions provided by the Reserve Bank of India in the Infrastructure Development Fund - Non Banking Financial Companies (Reserve Bank) Directions, 2011, vide notification No. DNBS.233/CGM (US)-2011, dated the 21st November, 2011.

(2) The funds of Infrastructure Debt Fund shall be invested only in the Public Private Partnership Infrastructure Projects and Post Commencement Operation Date Infrastructure Projects which have completed at least one year of satisfactory commercial operation and such Infrastructure Debt Fund is a party to tripartite agreement with the concessionaire and the project authority for ensuring compulsory buy out and termination payment.

(3) The Infrastructure Debt Fund shall issue rupee denominated bonds or foreign currency bonds in accordance with the directions of Reserve Bank of India (RBI) and the relevant regulations under the Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000, as amended from time to time.

(4) The terms and conditions of any bond issued by the Infrastructure Debt Fund shall be in accordance with the said directions of the Reserve Bank of India and the regulations referred to in sub-rule (3).

(5) In case of an investor in the aforesaid bond being a non-resident, the original or initial maturity of bond, at time of first investment by such non-resident investor, shall not be less than a period of five years.

Provided that the investment made by a non-resident investor in such bonds shall be subject to a lock in period of not less than three years, but the non-resident investor may transfer the bond to another non-resident investor within such lock in period.

(6) The investment made by the Infrastructure Debt Fund in an individual project or project belonging to a group at any time, shall not exceed twenty percent, of the corpus of the fund.

(7) No investment shall be made by the Infrastructure Debt Fund in any project where its sponsor or the associate enterprise or the group of such sponsor has a substantial interest.

(8) The Infrastructure Debt Fund shall file its return of income as required by sub-section (4C) of section 139 on or before the due date.

(9) In case the Infrastructure Debt Fund does not fulfill any of the conditions provided in this rule or directions of the Reserve Bank of India, all provisions of the Act shall apply as if it is not an Infrastructure Debt Fund referred to in clause (47) of section 10 of the Act.

Explanation.- For the purpose of this rule,-

(i) "associate enterprise" shall have the same meaning as assigned to it in section 92A of the Act;

(ii) "concern" shall have the same meaning as in clause (a) of Explanation 3 of sub-section (22) of section 2 of the Act;

(iii) "concessionaire", "tripartite agreement" and "project authority" respectively shall have the same meaning as assigned to them in the Infrastructure Debt Fund-Non-Banking Financial Company (Reserve Bank) Directions, 2011;

(iv) "corpus" means the total funds of the Infrastructure Debt Fund

raised for the purpose of investment;

(v) "group" means a group as defined in clause (mm) of section 2 of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

(vi) a person shall be deemed to have substantial interest in-

(a) a company if he is the beneficial owner (including beneficial ownership held by one or more of his relatives, in case the person is an individual) of shares (not being the shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than 10 percent of the voting power; or

(b) a concern other than a company if he is, at any time during the previous year, beneficially entitled to not less than 20 percent of the income of such concern.

(vii) "relative", in relation to an individual, means-

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) brother or sister of either of the parents of the individual;

(e) any lineal ascendant or descendant of the individual;

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

(g) spouse of the persons referred to in sub-clauses (b) to (f); or

(h) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual;

(viii) "sponsor" means a non-banking financial company, or a bank which is allowed to act as sponsor of Infrastructure Debt Fund in accordance with the directions of Reserve Bank of India.]

1. Inserted by the Income-tax (5th Amendment) Rules, 2012 vide Notification No. 16/2012 dated 30.04.2012.

### **3. Valuation of perquisites :-**

<sup>1</sup>[3. Valuation of perquisites

<sup>20</sup>[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 assessee (hereinafter referred to as employee) or to any member of his household by reason of his employment shall be determined in accordance with the following

sub-rules, namely:-

( 1 ) The value of residential accommodation provided by the employer during the previous year shall be determined on the basis provided in the Table below :-

**TABLE - I**

<b>Sl. No.</b>	<b>Circumstances</b>	<b>Where accommodation is unfurnished</b>	<b>Where accommodation is furnished</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
(1)	Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State.	License 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 column (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 he same by the employee during the previous year.
(2)	Where the accommodation is provided by any other employer and (a) where the accommodation is owned by the employer, or (b) where the accommodation 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	The value of perquisites as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or



		<p>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.</p> <p>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.</p>	<p>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 column (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.</p>
(3)	<p>Where the accommodation 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 fifteen days on his transfer from one place to another)</p>	<p>Not applicable</p>	<p>24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is</p>

		provided as reduced by the rent, if any, actually paid or payable by the employee:
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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-

(i) 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

(ii) which is located in a remote area:

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.

Explanation.- For the purposes of this sub-rule, where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-

(i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and

(ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No. (2)(a) of Table I, as if the accommodation is owned by the employer.

(2) (A) The value of perquisite by way of use of motor car to an employee by an employer shall be determined in accordance with the following Table, namely:-

**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)	(2)	(3)	(4)
(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; (b) is used exclusively for the private or personal purposes	No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer. Actual amount of expenditure incurred by the employer on the running and	No value: Provided that the documents specified in clause (B) of this sub-rule are

	<p>of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;</p> <p>(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 and-</p> <p>(i) the expenses on maintenance and running are met or reimbursed by the employer;</p> <p>(ii) the expenses on running and maintenance for private or personal use are fully met by the assessee.</p>	<p>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 form the employee for such use.</p> <p>Rs. 1,800 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p> <p>Rs. 600 (plus Rs.900, if chauffeur is also provided by the employer to run the motor car)</p>	<p>maintained 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 form the employee for such use.</p> <p>Rs. 2,400 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p> <p>Rs. 900 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p>
(2)	<p>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-</p>	<p>No value:          Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.          Subject to the provisions of clause (B) of this sub-rule, the actual amount of</p>	<p>No value:          Provided that the documents specified in clause (B) of this sub-rule are</p>

	<p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes;</p> <p>(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.</p>	<p>expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above.</p>	<p>maintained by the employer. Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above</p>
(3)	<p>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</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes;</p> <p>(ii) such reimbursement is for the use of vehicle partly for official purposes and partly for personal or private purposes of the employee.</p>	<p>No value:          Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.          Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount of Rs. 900.</p>	<p>Not applicable.</p>

Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.

Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount of Rs. 900. Not applicable.

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 of 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 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 as if he had been provided with such car 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, 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 was 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.

(3) The value of benefit to the employee or any member of his household resulting from the provision by the employer or services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

(4) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water. Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer. Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

(5) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees household 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 shall be determined with reference to the cost of such education in a similar institution in or near the locality. Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered:

Provided that where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, nothing contained in this sub-rule shall apply if the cost of such education or the value of such benefit per child does not exceed one thousand rupees per month.

(6) The value of any benefit or amenity resulting from the provision by an employer who is engaged in the carriage of passengers or goods, to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this sub-rule shall apply to the employees of an airline or the railways.

(7) In terms of provisions contained in sub-clause (viii) of clause 2 of section 17, the following other benefits or amenities and value thereof shall be determined in the manner provided hereunder:

(i) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any

member of his household 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, constituted under the State Bank of India Act, 1955 (23 of 1955), as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household:

Provided that no value would be charged if such loans are made available for medical treatment in respect of diseases specified in rule 3A of these Rules or where the amount of loans are petty not exceeding in the aggregate twenty thousand rupees:

Provided further that where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

(ii) The value of traveling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than concession or assistance referred to in rule 2B of these rules, shall be determined as 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 shall be taken to be the value at which such facilities are offered by other agencies to the public. Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity:

Provided that where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(iii) The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this clause shall apply to free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof either case does not exceed fifty rupees per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift:

Provided that where the value of such gift, voucher or token, as the case may be, is below five thousand rupees in the aggregate during the previous year, the value of perquisite shall be taken as nil.

(v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, 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 shall be taken to be the value of perquisite chargeable to tax as reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:

Provided that there shall be no value of such benefit where expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled:

(a) 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;

(b) 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.

(vi) (A) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:

Provided that where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

(B) Nothing contained in this clause shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled:-

(a) 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;

(b) 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.

(C) Nothing contained in this clause shall apply for use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(vii) The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other than assets already specified in this rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 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.

(viii) The value of benefit to the employee arising from the transfer of any movable asset belonging to the employer directly or indirectly to the employee or any member of his household shall be determined to be the amount representing the actual cost of such assets to the employer as reduced by the cost of normal wear and tear calculated at the rate of 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:

Provided that in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50% and in the case of motor cars at the rate of 20% by the reducing balance method.

(ix) The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms length transaction as reduced by the employees contribution, if any:

Provided that nothing contained in this clause shall apply to the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer.

(8) (i) For the purposes of sub-clause (vi) of clause 2 of section 17, the fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in accordance with the provisions of clause (ii) or clause (iii).

(ii) In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange:

Provided that where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share:

Provided further that where, on the date of exercising of the option, there is no

trading in the share on any recognized sk exchange, the fair market value shall be  
(a) the closing price of the share on any recognised sk exchange on a date closest to the date of exercising of the option and immediately preceding such date; or  
(b) the closing price of the share on a recognised sk exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on more than one recognized sk exchange.

(iii) In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised sk exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

(iv) For the purpose of this sub-rule,

(a) closing price of a share on a recognised sk exchange on a date shall be the price of the last settlement on such date on such sk exchange:

Provided that where the sk exchange quotes both buy and sell prices, the closing price shall be the sell price of the last settlement.

(b) merchant banker means category I merchant banker registered with Security and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(c) opening price of a share on a recognised sk exchange on a date shall be the price of the first settlement on such date on such sk exchange:

Provided that where the sk exchange quotes both buy and sell prices, the opening price shall be the sell price of the first settlement.

(d) recognised sk exchange shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(e) specified date means,

(i) the date of exercising of the option; or

(ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

(9) For the purposes of sub-clause (vi) of clause 2 of section 17, the fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

Explanation. - For the purposes of this sub-rule, merchant banker and specified date shall have the meanings assigned to them in sub-clause (b) and sub-clause (e) respectively of clause (iv) of sub-rule (8).

(10) This rule shall come into force with effect from the 1st day of April, 2009.

Explanation. - For the purposes of this rule-

(i) 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;

(ii) entertainment includes hospitality of any kind and also, expenditure on business gifts other than free samples of the employers own product with the aim of advertising to the general public;

(iii) hotel includes licensed accommodation in the nature of motel, service apartment or guest house;

(iv) member of household shall include-

(a) spouse(s),

(b) children and their spouses,

(c) parents, and

(d) servants and dependants;

(v) remote area, for purposes of proviso to this sub-rule means an area that is located at least 40 kilometres away from a town having a population not exceeding 20,000 based on latest published all-India census;

(vi) 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) employers 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 clause (2) of section 17 of the Income-tax Act;
- (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17;
- (f) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;
- (vii) maximum outstanding monthly balance means the aggregate outstanding balance for each loan as on the last day of each month.]

1. Substituted by The I.T (Twenty Second Amendment) Rules, 2001 w.e.f. 01.04.2001 Prior to substitution rule 3 read as under:

"3.- Valuation of perquisites.

For the purpose of computing the income chargeable under the head "Salaries" the value of the perquisites (not provided for by way of monetary payment to the asscssee) mentioned below shall be determined in accordance with the following clauses, namely:--

(a) The value of rent-free residential accommodation shall be determined on the basis provided hereunder, namely :--

(1) where the accommodation is provided-

(A) by Government to a person holding an office or post in connection with the affairs of the Union or of a State;

(B) by a body or undertaking under the control of Government to any officer of Government whose services have been lent to that body or undertaking (the accommodation itself having been allotted to it by Government), an amount equal to-

(1) if the accommodation is unfurnished, the rent which has been or would have been determined as payable by such person or officer in accordance with the rules framed by Government for allotment of residences to its officers;

(2) if the accommodation is furnished, an amount calculated in accordance with sub-clause (i) (1) plus 10 per cent per annum, of the original cost of the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable therefor;

(ii) where the accommodation is provided-

(A) by the Reserve Bank of India, to any person employed by it;

(B) by a corporation established by a Central, State or Provincial Act, or by a company in which all the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that Bank, to any person employed by it;

(BB) by a company not being a company referred to in sub-clause (ii)(B) or sub-clause (ii)(D) in which all the shares are held by a corporation referred to in sub-clause (ii)(B) or by a company referred to in that sub-clause, to any person employed by it;

(C) by a body or undertaking including a society registered under the Societies Registration Act, 1860 (21 of 1860), financed wholly or mainly by the Government, to any person employed by it;

(D) by a company not being a company referred to in sub-clause (ii)(B) or sub-clause (ii)(BB) in which not less than 40 per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that Bank, to any officer of Government whose services have been lent to it or to any person employed by it after his retirement from the service of Government,  
an amount equal to-

(1) if the accommodation is unfurnished, 10 per cent of the salary due to such person or officer, as the case may be, in respect of the period during which the said accommodation was occupied by him during the previous year

Provided that where the assessee claims and the Assessing Officer is satisfied that the sum arrived at on the aforesaid basis exceeds the fair rental value of the accommodation, the value of the perquisite to the assessee shall be limited to such fair rental value;

(2) if the accommodation is furnished, an amount calculated in accordance with sub-clause (ii)(1) plus 10 per cent per annum, of the original cost of the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable therefor;

(iii) in any other case,--

(A) the value of rent-free residential accommodation which is not furnished shall ordinarily be a sum equal to 10 per cent of the salary due to the assessee in respect of the period during which the said accommodation was occupied by him during the previous year:  
Provided that-

(1) where the fair rental value of the accommodation is in excess of 20 per cent of the assessee's salary, the value of the perquisite shall be taken to be 10 per cent of the salary increased by a sum equal to the amount by which the fair rental value exceeds 20 per cent of the salary; so, however, that the Assessing Officer may, having regard to the nature of the accommodation, determine the sum by which 10 per cent of the salary is to be increased, as a percentage (not exceeding 100 per cent) of the amount by which the fair rental value exceeds 20 per cent of the salary;

(2) where the assessee claims, and the Assessing Officer is satisfied that the sum arrived at on the basis provided above exceeds the fair rental value of the accommodation, the value of the perquisite to the assessee shall be limited to such fair rental value; (B) where the accommodation is furnished, the value of rent-free residential accommodation shall be the aggregate of the following sums, namely:--

(1) the fair rental value of the accommodation arrived at in accordance with the provisions of sub-clause (iii)(A) as if the accommodation were not furnished; and

(2) the fair rent for the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) calculated at 10 per cent per annum of the original cost of such furniture or if such furniture is hired from a third party, the actual hire charges payable therefor.

Explanation 1: "Salary" includes the pay, allowances, bonus or commission payable monthly or otherwise, but does not include the following, namely :--

(i) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the assessee concerned;

(ii) employers contributions to the provident fund account of the assessee; (iii) allowances which are exempted from payment of tax;

(iv) any allowance in the nature of an entertainment allowance, to the extent such allowance is deductible under clause of section 16.

Explanation 2 : For the purposes of sub-clause (iii), the fair rental value of accommodation which is not furnished shall be the rent which a similar accommodation would realise in the same locality or the municipal valuation in respect of the accommodation, whichever is higher.

(b) The value of residential accommodation provided at a concessional rent shall be determined as the sum by which the value computed in accordance with clause (a), as if the accommodation were provided free of rent, exceeds the rent actually payable by the assessee for the period of his occupation during the relevant previous year.

[(ba) The benefit to the assessee resulting from the provision by the employer of free services of a sweeper, a gardener or a watchman shall be valued at Rs. 120 per month per person.]

(c) (i) The value of a motor-car provided by the employer for use by the assessee exclusively for his private or personal purposes shall be determined as the sum actually expended by the employer on the maintenance and running of the motor-car during the relevant previous year (including remuneration, if any, paid by the employer to the chauffeur) and, where the motor-car is owned by the employer, as the aggregate of such sum and the amount representing the normal wear and tear of the motor-car;

(ii) the value of a motor-car provided by the employer for use by the assessee partly in the performance of his duties and partly for his private or personal purposes shall be determined to be a sum equal to that part of the amount actually expended by the employer on the maintenance and running of the motor-car during the relevant previous year (including remuneration, if any, paid by the employer to the chauffeur) which can reasonably be attributed to the user of the motor-car by the assessee for his private or personal purposes or, where the motor-car is owned by the employer, the aggregate of such sum and of a sum equal to that part of the amount representing the normal wear and tear of the motor-car which can reasonably be attributed to the user of the

motor-car by the assessee for his private or personal purposes; so, however, that where a determination on the basis mentioned above presents difficulty, the value of the perquisite may be determined on the basis provided in the Table below :

**TABLE**

<b>Value of perquisite per calendar month</b>		
<b>1</b>	<b>2</b>	<b>3</b>
	Where the h.p. rating of the car does not exceed 16 or the cubic capacity of the engine does not exceed 1.88 liters	Where the h.p. rating of the car exceeds 16 or the cubic capacity of the engine exceeds 1.88 liters
1. Where the motor-car is owned or hired by the employer and all the expenses on maintenance and running are met or reimbursed to the assessee by the employer 2. Where the motor-car is owned or hired by the employer but the expenses on maintenance and running for the assessee's private or personal purpose are met by the assessee's private or personal purposes are met by the assessee	Rs.  [600]  [200]	Rs.  [800]  [300]

Provided that where a chauffeur is also provided to run the motor-car, the value of the perquisite as calculated in accordance with this Table shall be increased by a sum of Rs. [300] per month;

(iii) where one or more motor-cars are owned or hired by the employer of the assessee and the assessee is 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), an amount calculated in accordance with the Table under sub-clause (ii) and the proviso thereto as if the assessee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal purposes:

Provided that where two or more motor-cars are allowed to be so used and the h.p. rating of any one of such motor-cars exceeds 16 or the cubic capacity of the engine of any one of such motor-cars exceeds 1.88 litres, the assessee shall be deemed to have been provided by the employer with one motor-car of h.p. rating exceeding 16:

Provided further that where two or more motor-cars are allowed to be so used and a chauffeur is also provided to run any such motor-car, the value of the perquisite as so calculated shall be increased by a sum of Rs. [300] per month;

(iv) where the assessee owns a motor-car but (the actual running or maintenance charges (including remuneration of the chauffeur, if any) are met, or reimbursed to him, by the employer, the value of the perquisite to the assessee shall be determined as the sum actually expended by the employer which, in the opinion of the Assessing Officer, can reasonably be attributed to the user of the car by the assessee otherwise than wholly and exclusively in the performance of his duties;

(v) the value of a motor-car or motor-cars provided for the use of, or allowed to be used by, the assessee (otherwise than wholly and exclusively in the performance of his duties) at a concessional rate shall be determined as the sum by which the value computed in accordance with the foregoing provisions of this clause exceeds the amount actually payable by the assessee for the use of such motor-car or motor-cars for the period of use during the relevant previous year;

(vi) the value of the free use by the assessee of any other type of conveyance provided by the employer shall be determined as so much of the sum actually expended by the employer on the maintenance and running of the conveyance during the relevant previous year, and where the conveyance is owned by the employer, as so much of the aggregate of such sum and the amount representing the normal wear and tear of the conveyance, as, in the opinion of the Assessing Officer, can reasonably be attributed to the user by the assessee, otherwise than wholly and exclusively in the performance of his duties;

(d) the value of the benefit to the assessee resulting from the supply of gas, electric energy or water for his household consumption free of any charge shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water, but--

(i) where such supply is made from resources owned by the employer without purchasing them from any other outside agency, the value therefor shall be taken as nil, and

(ii) where the Assessing Officer is satisfied that the gas, electric energy or water supply to any assessee are consumed also for the purposes of his official duties, the Assessing Officer shall determine the value of the benefit to the assessee to be equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water or  $6\frac{1}{4}$  per cent of the salary of the assessee, whichever is lower;

(e) the value of the benefit to the assessee resulting from the provision of free education facilities for any member of his household shall be determined as the sum equal to the amount of the expenditure incurred by the employer in that behalf, but where the educational institution itself is maintained and run by the employer for the benefit of all his employees as a group, the value of the perquisite to the assessee shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality;

(f) the value of any benefit or amenity resulting from the provision by any undertaking engaged in the carriage of passengers or goods to any employee of the undertaking or to members of his family or his dependent relatives, of journey free of cost or at concessional fares, in any conveyance owned by the undertaking for the purpose of transport of passengers or goods shall be taken as nil;

(g) the value of any benefit or amenity not included in the preceding clauses of this rule shall be determined on such basis and in such amount as the Assessing Officer considers fair and reasonable".

2 Inserted by the I.T (Second Amendment) Rules, 2002 w.r.e.f. 01.04.2001.

3 Substituted by IT (17th Amdt.) Rules, 2002. w.e.f. 01.08.2002. Prior to substitution clause (B) read as under:

"(B) Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in items 2(ii) or 3(ii) of the above Table, 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:-

i ) 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;

ii) the employee gives a certificate that the expenditure was incurred wholly and exclusively for the performance of his official duty;

iii) the supervising authority of the employee, wherever applicable, gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties"

4 Substituted by IT (17th Amdt.) Rules, 2002. w.e.f. 01.08.2002. Prior to substitution clause (v) read as under:

"(v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card), provided by the employer or otherwise, paid for or reimbursed by the employer shall be taken to be the value of perquisite chargeable to tax. However, there shall be no value of such benefit where the expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled:-

(a) complete details in respect of such expenditure is maintained by the employer which may, inter-alia, include the date of expenditure and the nature of expenditure;

(b) it is certified by the employee that such expenditure was incurred wholly and exclusively for the performance of official duty;

(c) the supervising authority of the employee gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(d) where an employee incurs expenditure on entertainment and claims the same to have been incurred wholly and exclusively, in the performance of his duties, details of such entertainment expenses, inter-alia, include the nature and purpose of entertainment and persons entertained.

The amount so determined shall be reduced by the amount, if any

paid or recovered from the employee for such benefit or amenity."

5 Substituted by IT (17th Amdt.) Rules, 2002. w.e.f. 01.08.2002. Prior to substitution clause (B) read as under:

"(B) Nothing contained in this sub-rule shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled-

(a) complete details in respect of such expenditure is maintained by the employer which may, inter-alia, include the date of expenditure, the nature of expenditure and its business expediency;

(b) it is certified by the employee that such expenditure was incurred wholly and exclusively for the performance of official duty;

(c) the supervising authority of the employee gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties;

(d) where an employee incurs expenditure on entertainment and claims the same to have been incurred wholly and exclusively for the performance of his duties, details of such entertainment expenses, inter-alia, include the nature and purpose of entertainment, persons entertained and business expediency for such entertainment."

6 Inserted by IT (19th Amdt) Rules, 2002 w.r.e.f 01.04.2001

7 The words "or the Railways" omitted by IT (19th Amdt) Rules, 2002 w.r.e.f 01.04.2001

8 Substituted for "the Railways" by IT (2nd Amdt.) Rules, 2003 w.r.e.f 01.04.2002.

9 Substituted by Income-tax (First Amendment) Rules, 2004 w.e.f. 01.04.2004. Prior to substitution it read as under:

"concessional loan made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the simple interest computed at the rate of 10% per annum in respect of loans for house and conveyance and at the rate of 13% per annum for other loans"

10. Substituted by Income-tax (13th Amendment) Rules, 2004 w.e.f. 03.11.2004. Prior to substitution it read as under:

"Provided that nothing contained in this sub-rule would be applicable to any accommodation located in a remote area provided to an employee working at a mining site or an onshore oil exploration site, or a project execution site or an accommodation provided in an offshore site of similar nature:"

11. Substituted by Income-tax (13th Amendment) Rules, 2004 w.e.f. 03.11.2004 for the words "value of free meals".

12. Substituted by Income-tax (13th Amendment) Rules, 2004 w.e.f. 03.11.2004. Prior to substitution it read as under:

"Provided that nothing contained in this sub-rule shall apply to free meals provided by the employer during office hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints if the value thereof in either case is upto Rs.50/- per meal or to tea or snacks provided during office hours or to free meals during working hours provided in a remote area or an offshore installation."

13 Substituted by Income-tax (seventh Amendment) Rules, 2005 w.e.f. 01.04.2005. Prior to substitution it read as under:

<b>SI. No</b>	<b>Circumstances</b>	<b>Where the accommodation is unfurnished</b>	<b>Where the accommodation is furnished</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
(1)	Where the accommodation is provided by Union or State Government to their employees either holding office or post in connection with the affairs of Union or State or serving with any body or undertaking under the control of such Government on deputation	License fee determined by Union or State Government in respect of accommodation in accordance with the rules framed by that government as reduced by the rent actually paid by the employee.	The value of perquisite as determined under col. (3) and increased by 10% of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(2)	Where the accommodation is provided by any other employer and  (a)Where the accommodation is owned by the employer or	i)10% of salary in cities having population exceeding 4 lacs as per 1991 census;  ii) 7.5% of salary in other cities, in respect of the period during which the said accommodation was	The value of perquisite as determined under col. (3) and increased by 10% 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



	(b) Where the accommodation is taken on lease or rent by the employer.	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 10% of salary whichever is lower as reduced by the rent, if any, actually paid by the employee.	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 years.
(3)	Where the accommodation is provided by the employer specified in Sl. No. (1) or (2) above 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, which is lower, for the period which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee.

14. Substituted by Income-tax (seventh Amendment) Rules, 2005 w.e.f. 01.04.2005. Prior to substitution it read as under:

"(2) (A) The value of perquisite provided by way of use of motor car shall be determined on the basis provided in the Table-II below:

**TABLE-II**

**Value of Perquisite per calendar month**

<b>Sl. No.</b>	<b>Circumstances</b>	<b>Where cubic capacity of engine does not exceed 1.6 litres.</b>	<b>Where cubic capacity of engine exceeds 1.6 litres.</b>
1.	Where the motor car is owned or hired by the employer and- a. is used wholly and exclusively in	No value provided that the documents specified in clause (B) of this sub-rule are maintained by the	No value provided that the documents specified in clause (B) of this sub-rule are maintained by the

	<p>the performance of his official duties.</p> <p>b. is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer.</p> <p>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 and</p> <p>(i) the expenses on maintenance and running are met or reimbursed by the employer.</p> <p>(ii) The expenses on running and maintenance for such private or personal use are fully met by the assessee.</p>	<p>employer.</p> <p>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.</p> <p>Rs. 1200 (plus Rs. 600, if chauffeur is also provided to run the motor car)</p> <p>Rs. 400 (plus Rs. 600, if chauffeur is provided by the employer to run the motor car)</p>	<p>employer.</p> <p>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.</p> <p>Rs. 1600 (plus Rs. 600, if chauffeur is also provided to run the motor car)</p> <p>Rs. 600 (plus Rs. 600, if chauffeur is also provided to run the motor car)</p>
2.	<p>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</p>	<p>No value provided that</p>	<p>No value provided that</p>

	<p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes.</p> <p>(ii) Such reimbursement is for the use of the vehicle partly for official purpose and partly for personal or private purposes of the employee or any member of his household.</p>	<p>the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Subject to the provisions contained in clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in col. (1)(c)(i) above.</p>	<p>the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Subject to the provisions contained in clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in col. (1)(c)(i) above.</p>
3.	<p>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</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes.</p> <p>(ii) Such reimbursement is for the use of the vehicle partly for official purpose and partly for personal or private purposes of the employee.</p>	<p>No value provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Subject to the provisions contained in clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount Rs. 600/-.</p>	Not applicable

Provided that where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all or any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount

calculated in respect of one car in accordance with item (1)(c)(i) of the Table-II as if the employee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars in accordance with item (1)(b) of the Table-II as if he had been provided with such car or cars exclusively for his private or personal purposes.

<sup>3</sup>[(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 item 2(ii) or 3(ii) of the above Table, 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."

15. Substituted by Income-tax (seventh Amendment) Rules, 2005 w.e.f. 01.04.2005. Prior to substitution it read as under:

"(6) The value of any benefit or amenity resulting from the provision by any undertaking engaged in the carriage of passengers or goods to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by the undertaking for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such undertaking to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity.

<sup>6</sup>[Provided that nothing contained in this sub-rule shall apply to the employees of <sup>8</sup>(an airline or the Railways.)]"

16. Substituted by Income-tax (seventh Amendment) Rules, 2005 w.e.f. 01.04.2005. Prior to substitution it read as under:

(ii) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than concession or assistance referred to in Rule 2B, shall be determined as the sum equal to the amount of the expenditure incurred by the employer in that behalf. Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public. Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity. However, where any official

tour is extended as a vacation, the value of such fringe benefit will be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.

(iii) The <sup>11</sup>[value of free food and non-alcoholic beverages] provided by the employer to an employee shall be the amount of expenditure incurred by the employer. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.

<sup>12</sup>[Provided that nothing contained in this sub-rule shall apply to free food and non-alcoholic beverages provided by the employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof in either case does not exceed Rs. 50 per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.]

(iv) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise shall be determined as the sum equal to the amount of such gift. However, where the value of such gift, voucher or token, as the case may be, is below Rs.5,000/- in the aggregate during the previous year, the value of perquisite shall be taken as nil.

<sup>4</sup>[(v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card), provided by the employer or otherwise, paid for or reimbursed by the employer shall be taken to be the value of perquisite chargeable to tax. However, there shall be no value of such benefit where the expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled:-

(a) complete details in respect of such expenditure is maintained by the employer which may, inter alia, include the date of expenditure and the nature of expenditure;

(b) 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 amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.]

(vi) (A) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by any member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by the employer on that account. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee

for such benefit or amenity. However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership."

17 Substituted by Income-tax (seventh Amendment) Rules, 2005 w.e.f. 01.04.2005. Prior to substitution it read as under:

"(8) The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms length transaction as reduced by the employees contribution, if any.

Provided however, that nothing contained in this sub-rule shall apply to the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer."

18 Substituted by Income-tax (Fourteenth Amendment) Rules, 2007 w.e.f. 01.04.2006. Prior to substitution it read as under:

### 13 [Table I

<b>S.No.</b>	<b>Circumstances</b>	<b>Where accommodation is unfurnished</b>	<b>Where accommodation is furnished</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Where the accommodation is provided by the Central Government or any State Government to the 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 of 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 column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
2.	Where the accommodation is provided by any other employer and - (a) where the accommodation is owned by the	(i) 20% of salary in cities having population exceeding 4 lakhs as	The value of perquisite as determined under column (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

	<p>employer, or (b) where the accommodation is taken on lease or rent by the employer.</p>	<p>per 2001 census;</p> <p>(ii) 15% of salary in other cities, in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee. Actual amount of lease rental paid or payable by the employer or 20% of salary whichever is lower as reduced by the rent, if any, actually paid by the employee.</p>	<p>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.</p> <p>The value of perquisite as determined under column (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.</p>
3.	<p>Where the accommodation is provided by the employer specified in serial number (1) or (2) above 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)</p>	<p>Not applicable.</p>	<p>24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee:]</p>

19 Inserted by Income-tax (Fourteenth Amendment) Rules, 2007 w.e.f. 01.04.2008.

20. Substituted by the Income Tax (Thirteenth Amendment) Rules,

2009 vide Notification No. 94/2009 dated 18.12.2009 for the following : -

"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 assessee (hereinafter referred to as employee) or to any member of his household by reason of his employment shall be determined in accordance with the following sub-rules, namely: -

(1) The value of residential accommodation provided by the employer during the previous year shall be determined on the basis provided in the Table below:-

18 [TABLE I

<b>Sl No.</b>	<b>Circumstances</b>	<b>Where accommodation is unfurnished</b>	<b>Where accommodation is furnished</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
(1)	Where the accommodation is provided by the Central Government or any State Government to the 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.	License 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 column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(2)	Where the accommodation is provided by any other employer and- (a) where the accommodation is owned by the employer, or (b) where the accommodation 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	The value of perquisite as determined under column (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



		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.	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 column (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 accommodation 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 fifteen days on his transfer from one place to another)	Not applicable	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee.

<sup>19</sup>[(2) (A) The value of perquisite provided by way of use of motor car to an employee by an employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, shall be determined in accordance with the following Table, namely:-

<b>Sl. No.</b>	<b>Circumstances</b>	<b>Where cubic capacity 8/L3 of engine does not</b>	<b>Where cubic capacity of engine exceeds</b>
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<b>(1)</b>	<b>(2)</b>	<b>exceed 1.6 litres (3)</b>	<b>1.6 litres (4)</b>
(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; (b) is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;	No value : Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer. Actual amount of expenditure incurred by the employer on die 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.	No value : Provided that the documents specified in clause (B) of this sub-rule are maintained 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.
	(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 and(i) the expenses on maintenance and running are met or reimbursed by the employer,(ii) the expenses on running and	Rs. 1,200 (plus Rs. 600, if chauffeur is also provided to run the motor car) Rs. 400 (plus Rs. 600, if chauffeur is provided by the employer to run the motor car)	Rs. 1,600 (plus Rs. 600, if chauffeur is also provided to run the motor car) Rs. 600 (plus Rs. 600, if chauffeur is also provided to run the motor car)

		<p>maintenance for such private or personal use are fully met by the assessee.</p>	
(2)	(3)	<p>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, (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. 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, (ii) such reimbursement is for the use of the vehicle partly for</p>	<p>No value : Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer. Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above. No value : Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer. Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by an amount of Rs. 600:</p>
			<p>No value : Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer. Subject to the provisions contained in clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above. Not applicable</p>

	official purposes and partly for personal or private purposes of the employee.		
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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 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 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. Nos. 2(ii) or 3(iii) of Table II, 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.

(iii) after sub-rule (5), the following sub-rule shall be inserted with effect from 1st April, 2008, namely:-

(6) The value of any benefit or amenity resulting from the provision by an employer, who is not liable to pay fringe benefit tax under Chapter XIIH of the Income-tax Act and is engaged in the carriage of passengers or goods to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this sub-rule shall apply to the employees of an airline or the railways

(iv) in sub-rule (7),-

(a) after item (i), the following items shall be inserted with effect from 1st April, 2008, namely:-

(ii) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer, who is not liable to pay fringe benefit tax under Chapter XH-H of the Act, for any holiday availed of by the employee or any member of his household, other than concession or assistance referred to in rule 2B of these rules, shall be determined as 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 shall be taken to be the value at which such facilities are offered by other agencies to the public. Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying

him, the amount of expenditure so incurred shall also be a fringe benefit or amenity. However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(iii) The value of free food and non alcoholic beverages provided by the employer, who is not liable to pay fringe benefit tax under Chapter XIIH of the Act, to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this sub-rule shall apply to free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof in either case does not exceed Rs. 50 per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, shall be determined as the sum equal to the amount of such gift. However, where the value of such gift, voucher or token, as the case may be, is below Rs. 5,000 in the aggregate during the previous year, the value of perquisite shall be taken as nil.

(v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card), provided by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax. However, there shall be no value of such benefit where the expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled

(a) 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;

(b) 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 amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.

(vi) (A) The value of benefit to the employee resulting from the payment or reimbursement by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by any member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity. However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

(B) Nothing contained in this sub-rule shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled:

(a) 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;

(b) 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;

(c) Nothing contained in this sub-rule shall apply for use of health club, sports and similar facilities provide uniformly to all employees by the employer.

(b) after item (viii), the following item shall be inserted with effect from 1st day of April, 2008, namely:-

(ix) The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms length transaction as reduced by the employees contribution, if any:

Provided that nothing contained in this item shall apply to the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer.]

**10**[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,--

(i) 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

(ii) is located in a remote area:"]

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.

**14**[\*\*\*]

(3) The value of benefit to the employee or any member of his household resulting from the provision by the employer of services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

(4) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water. Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer. Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

(5) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees household 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 shall be determined with reference to the cost of such education in a similar institution in or near the locality. Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered:

Provided that where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, nothing contained in this sub-rule shall apply if the cost of such education or the value of such benefit per child does not exceed Rs.1,000/-p.m.

**15**[\*\*\*]

(7) In terms of provisions contained in sub-clause (vi) of sub-section (2) of section 17, the following other fringe benefits or amenities are hereby prescribed and the value thereof shall be determined in the manner provided hereunder:-

(i) The value of the benefit to the assessee resulting from the provision of interest-free or 9[concessional loan for any purpose made available to the employee or any member of his household 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, constituted under the State Bank of India Act, 1955(23 of 1955), as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it] on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household.

However, no value would be charged if such loans are made available for medical treatment in respect of diseases specified in Rule-3A of the these Rules or where the amount of loans are petty not exceeding in the aggregate Rs.20,000/-.

Provided that where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

**16**[\*\*\*]

**5**[(B) Nothing contained in this sub-rule shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled : -

(a) complete details in respect of such expenditure is maintained by the employer which may, inter alia, include the date of expenditure, the nature of expenditure and its business expediency;

(b) 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.]

(C) Nothing contained in this sub-rule shall apply for use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(vii) The value of benefit to the employee resulting from the use by the employee or any member of his household of any moveable asset (other than assets already specified in this Rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 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.

(viii) The value of benefit to the employee arising from the transfer of any moveable asset belonging to the employer directly or indirectly to the employee or any member of his household shall be determined to be the amount representing the actual cost of such asset to the employer as reduced by the cost of normal wear and tear calculated at the rate of 10% of the 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.

Provided that in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50% and in the case of motor cars at the rate of 20% by the reducing balance method.

**17**[\*\*\*]

(9) This Rule shall come into force with effect from the 1st day of April, 2001.

Provided that the employee may, at his option, compute the value of all perquisites made available to him or any member of his household for the period beginning on 1st day of April, 2001 and ending on 30th day of September, 2001 in accordance with the Rules as they stood prior to this amendment.

**2**[Provided further that for an employee being an employee of an airline **7**[\*\*\*], the provisions, of sub-rule (6) shall come into force with effect from the 1st day of April, 2002.]

Explanation-

For the purposes of this Rule -

- (i) "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;
- (ii) "entertainment" includes hospitality of any kind and also, expenditure on business gifts other than free samples of the employers own product with the aim of advertising to the general public;
- (iii) "hotel" includes licensed accommodation in the nature of motel, service apartment or guest house;
- (iv) "member of household" shall include
  - (a) spouse(s)
  - (b) children and their spouses
  - (c) parents
  - (d) servants and dependants;
- (v) "remote area", for purposes of proviso to this sub-rule 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;
- (vi) 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) employers contribution to the provident fund account of the employee;
  - (c) allowances which are exempted from payment of tax;
  - (d) the value of perquisites specified in sub-section (2) of section 17 of the Income-tax Act;
  - (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17;
- (vii) maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month;.]"

### **3A. Exemption of medical benefits from perquisite value in respect of medical treatment of prescribed diseases or ailments in hospitals approved by the Chief Commissioner.**

:-

3A.- <sup>1</sup>[Exemption of medical benefits from perquisite value in respect of medical treatment of prescribed diseases or ailments in hospitals approved by the Chief Commissioner.

(1) <sup>2</sup>[In granting approval to any hospital other than a hospital for Indian system of medicine and homoeopathic treatment for the purposes of sub-clause (b) of clause (ii) of the proviso to sub-clause (vi) of clause (2) of section 17], the Chief Commissioner shall satisfy himself that the hospital is registered with the local authority and fulfils the following requirements, namely :--

- (i) The building used for the hospital complies with the municipal bye-laws in force.
- (ii) The rooms are well ventilated, lighted and are kept in clean and hygienic conditions.
- (iii) At least ten iron spring beds are provided for patients. (iv) At



least one properly equipped operation theatre is provided, with minimum floor space of 180 square feet and with a separate sterilization room.

(iv) At least one labour room is provided, with minimum floor space of 180 square feet, in case the hospital provides medical service for maternity cases.

(v) Aseptic conditions are maintained in the operation theatre and the labour room.

(vi) A duty room is provided for the nursing staff on duty.

(vii) Adequate space for storage of medicines, food articles, equipments, etc., is provided.

(viii) The water used in the hospital or nursing home is fit for drinking.

(ix) Adequate arrangements are made for isolating septic and infectious patients.

(x) The hospital is provided with and maintains :--

(a) high pressure sterilizer and instrument sterilizer;

(b) oxygen cylinders and necessary attachments for giving oxygen;

(c) adequate surgical equipments, instruments and apparatus including intravenous apparatus;

(d) a pathological laboratory for testing of blood, urine and stool;

(e) electro-cardiogram monitoring system;

(f) stand-by generator for use in case of power failure.

(xi) There is at least one qualified doctor available on duty round the clock for every twenty beds or fraction thereof.

(xiii) In hospitals providing intensive care unit facilities, there are at least two qualified doctors available on duty round the clock exclusively for such intensive care unit.

(xiv) One nurse is on duty round the clock for every five beds or a fraction thereof.

(xv) In hospitals providing intensive care unit facilities, there are at least four nurses provided exclusively for every four beds or fraction thereof for such intensive care unit.

(xvi) The hospital maintains record of health of every patient containing information about the patients name, address, occupation, sex, age, date of admission, date of discharge, diagnosis of disease and treatment undertaken.

<sup>3</sup>[(1A) In granting approval to any hospital for Indian system of medicine and homoeopathic treatment for the purposes of sub-clause (b) of clause (ii) of the proviso to sub-clause (vi) of clause 2 of section 17, the Chief Commissioner shall satisfy himself that the hospital fulfils the conditions specified vide Office Memorandum

dated the 6th June, 2002, by the Department of Indian Systems of Medicine and Homoeopathy, Ministry of Health and Family Welfare for approval of private hospitals for Indian system of medicine and homoeopathic treatment to Central Government Health Scheme beneficiaries and Central Government employees.]

(2) <sup>4</sup>[For the purpose of sub-clause (b) of clause (ii) of the proviso to sub-clause (vi) of clause (2) of section 17], the prescribed diseases or ailments shall be the following, namely :--

- (a) cancer;
- (b) tuberculosis;
- (c) acquired immunity deficiency syndrome;
- (d) disease or ailment of the heart, blood, lymph glands, bone marrow, respiratory system, central nervous system, urinary system, liver, gall bladder, digestive system, endocrine glands or the skin, requiring surgical operation;
- (e) ailment or disease of the eye, ear, nose or throat, requiring surgical operation;
- (f) fracture in any part of the skeletal system or dislocation of vertebrae requiring surgical operation or orthopaedic treatment;
- (g) gynaecological or obstetric ailment or disease requiring surgical operation, caesarean operation or laparoscopic intervention;
- (h) ailment or disease of the organs mentioned at (d) , requiring medical treatment in a hospital for at least three continuous days;
- (i) gynaecological or obstetric ailment or disease requiring medical treatment in a hospital for at least three continuous days;
- (j) burn injuries requiring medical treatment in a hospital for at least three continuous days;
- (k) mental disorder - neurotic or psychotic - requiring medical treatment in a hospital for at least three continuous days;
- (l) drug addiction requiring medical treatment in a hospital for at least seven continuous days;
- (m) anaphylactic shocks including insulin shocks, drug reactions and other allergic manifestations requiring medical treatment in a hospital for at least three continuous days.

Explanation : For the purpose of this rule,--

- (a) "qualified doctor" means a person who holds a degree recognised by the Medical Council of India and is registered by the Medical Council of any State;
- (b) "nurse" means a person who holds a certificate of a recognised Nursing Council and is registered under any law for the registration of nurses;
- (c) "surgical operation" includes treatment by modern

methodology such as angioplasty, dialysis, lithotripsy, laser or cryo-surgery.]

1. Inserted by the IT (Nineteenth Amdt.) Rules, 1992, w.e.f. 7-10-1992.

2. Substituted by the IT (19th Amendment) Rules, 2004 for the following :-

"In granting approval to any hospital for the purposes of sub-clause (b) of clause (ii) of the proviso to clause (2) of section 17"

3. Inserted by the IT (19th Amendment) Rules, 2004.

4. Substituted by the IT (19th Amendment) Rules, 2004 for the following :-

"For the purpose of sub-clause (b) of clause (ii) of the proviso to clause (2) of section 17

#### **4. Unrealised rent :-**

<sup>1</sup>For the purposes of the Explanation below sub-section (1) of section 23, the amount of rent which the owner cannot realise shall be equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where,-

a) the tenancy is bona fide;

b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;

c) the defaulting tenant is not in occupation of any other property of the assessee;

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."

1. Substituted by I.T. (Eighth Amdt.) Rules 200, w.e.f. 2-07-2001. Prior to its Substitution Rule 4 read as under

"4.- Unrealised rent .Under clause (x) of sub-section (1) of section 24, deduction shall be allowed of such part of income in respect of which tax is payable under the head "Income from house property" as is equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where--  
(a) the tenancy is bona fide;

- (b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- (c) the defaulting tenant is not in occupation of any other property of the assessee;
- (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; and
- (e) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the previous year during which that rent was due and tax has been duly paid on such assessed income :

Provided that the deduction to be allowed on this account shall not exceed the income under the head "Income from house property" included in the total income as computed without making any deduction under this 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.

<sup>1</sup>[(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 1st day of April, 1997 shall be calculated at the percentage specified in the second column of the Table in Appendix IA 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 IA, 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 (f) 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 2[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.

Explanation : For the purposes of this sub-rule,--

(a) "laboratory financed by the Government" means a laboratory owned by any body including a society registered under the Societies Registration Act, 1860 (21 of 1860)], and financed wholly or mainly by the Government ;

(b) "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ; and

(c) "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.

1. Inserted by the IT (Twelfth Amdt.) Rules, 1997, w.r.e.f. 2-4-1997.

2. Substituted for "50" by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.

**5A. Form of report by an accountant for claiming deduction under section 32(1)(ia) :-**

<sup>1</sup>[5A. -Form of report by an accountant for claiming deduction under section 32(1)(ia)

The report from an accountant which is required to be furnished by the assessee under the third proviso to clause (ia) of sub-section (1) of section 32 shall be in Form No. 3AA.]

1. Inserted by IT (Fourteenth Amdt.) Rules, 2002 w.e.f 1.04.2003

**5AA. Prescribed authority for investment allowance. :-**

<sup>1</sup>[5AA].- Prescribed authority for investment allowance.

For the purposes of sub-section (2B) of section 32A, the "prescribed authority" shall be the Secretary, Department of Scientific and Industrial Research, Government of India.

1 "Rule 5A" renumbered as "Rule 5AA" by IT(Fourteenth Amendment.) Rules, 2002 w.e.f. 01.04.2003.

**5AB. Report of audit of accounts to be furnished under section 32AB(5). :-**

The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (5) of section 32AB shall be in <sup>1</sup>[Form No. 3AAA].

1. Substituted for "Form No. 3AA" by IT(Fourteenth Amdt.) Rules w.e.f. 1.04.2003.

**5AC. Report of audit of accounts to be furnished under section 33AB(2).** :-

5AC.- <sup>1</sup>[Report of audit of accounts to be furnished under section 33AB(2).

The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (2) of section 33AB, shall be in Form No. 3AC.]

1. Inserted by the IT (Second Amendment) Rules, 1992, w.e.f. 14-1-1992.

**5AD. Report of audit of accounts to be furnished under section 33ABA(2).** :-

5AD.- <sup>1</sup>[Report of audit of accounts to be furnished under section 33ABA(2).

The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (2) of section 33ABA, shall be in Form No. 3AD.]

1. Inserted by the IT (Twenty-fourth Amdt.) Rules, 1999, w.e.f. 30-6-1999.

**5B. Development rebate :-**

The deduction to be allowed by way of development rebate in respect of any ship or machinery or plant referred to in sub-section (1A) of section 33 shall be a sum equivalent to--

(a) in the case of any such ship--

(i) where the ship is acquired by the assessee at any time before the expiry of seven years from the date she was built, thirty per cent of the actual cost of the ship to the assessee ; and

(ii) in any other case, twenty per cent of the actual cost of the ship to the assessee;

(b) in the case of any such machinery or plant installed after the 31st day of March, 1964--

(i) where it is installed before the 1st day of April, 1966, for the purposes of business of mining coal, twenty per cent of the actual cost of the machinery or plant to the assessee ; and

(ii) in any other case, ten per cent of the actual cost of the machinery or plant to the assessee.

Explanation : In this rule, "actual cost" shall have the meaning assigned to it in clause (1) of section 43.]

**5C. Guidelines, form and manner in respect of approval under clause (ii) and clause (iii) of sub-section (1) of section 35 :-**

<sup>1</sup>[5C. Guidelines, form and manner in respect of approval under clause (ii) and clause (iii) of sub-section (1) of section 35-

(1) An application for approval,

(i) under clause (ii) <sup>5</sup>[or clause (iii)] of sub-section (1) of section 35 by a <sup>4</sup>[\*\*\*] research association in duplicate in Form No. 3CF-I;

(ii) under clause (ii) or clause (iii) of sub-section (1) of section 35 by a university, college or other institution in duplicate in Form No. 3CF-II shall be made, at any time during the financial year immediately preceding the assessment year from which the approval is sought, to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the applicant.

(2) Annexure to the application in Form No. 3CF-I shall be filled out if the association claims exemption under clause (21) of section 10 of the Income-tax Act.

(3) The applicant shall send a copy of the application in Form No. 3CF-I or, as the case may be, Form No. 3CF-II to Member (IT), Central Board of Direct Taxes accompanied by the acknowledgement receipt as evidence of having furnished the application Form in duplicate in the office of the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case.

(4) The period of one year, as specified in the fourth proviso to



sub-section (1) of section 35, before the expiry of which approval is to be granted or the application is to be rejected by the Central Government shall be reckoned from the end of the month in which the application Form from the applicant for approval is received in the office of Member (IT), Central Board of Direct Taxes.

(5) If any defect is noticed in the application in Form No. 3CF-I or Form No. 3CF-II or if any relevant document is not attached thereto, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax shall serve a deficiency letter on the applicant, before the expiry of one month from the date of receipt of the application Form in his office.

(6) The applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended, so however, that the total period for removal of deficiency does not exceed thirty days, and if the applicant fails to remove the deficiency within the period of thirty days so allowed, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax shall send his recommendation for treating the application as invalid to the Member (IT), Central Board of Direct Taxes.

(7) The Central Government, if satisfied, may pass an order treating the application as invalid.

(8) If the application Form is complete in all respects, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax, may make such inquiry as he may consider necessary regarding the genuineness of the activity of the association or university or college or other institution and send his recommendation to the Member (IT) for grant of approval or rejection of the application before the expiry of the period of three months to be reckoned from the end of the month in which the application Form was received in his office.

(9) The Central Government may before granting approval under clause (ii) or clause (iii) shall call for such documents or information from the applicant as it may consider necessary and may get any inquiry made for verification of the genuineness of the activity of the applicant.

(10) The Central Government may, under sub-section (1) of section 35, issue the notification to be published in the Official Gazette granting approval to the association or university or college or other institution or for reasons to be recorded in writing reject the application.

(11) The Central Government may withdraw the approval granted under clause (ii) or clause (iii) of sub-section (1) of section 35 if it is satisfied that the 4[\*\*\*] research association or university or college or other institution has ceased its activities or its activities are not genuine or are not being carried out in accordance with all or any of the conditions under rule 5D or rule 5E.

(12) No order treating the application as invalid or rejecting the application or withdrawing the approval, shall be passed without giving a reasonable opportunity of being heard to the 4[\*\*\*] research association or university or college or other institution.

(13) A copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant, the Assessing Officer and the Commissioner of Income-tax or, as the case may be, the Director of Income-tax.

1. Inserted by the Income-tax (Twelfth Amendment) Rules, 2006, dated 30.10.2006.

4. Omitted by the Income-Tax (Fourth Amendment) Rules, 2011 vide Circular No. 19/2011 dated 05.04.2011 for the following : - "scientific"

5. Inserted by the Income-Tax (Fourth Amendment) Rules, 2011 vide Circular No. 19/2011 dated 05.04.2011.

**5D. Conditions subject to which approval is to be granted to a research association under clause (ii) or clause (iii) of sub-section (1) of section 35 :-**

<sup>6</sup>[5D. Conditions subject to which approval is to be granted to a research association under clause (ii) or clause (iii) of sub-section (1) of section 35.--

(1) The sole object of the applicant research association shall be to undertake scientific research or research in social science or statistical research as the case may be.]

(2) The applicant research association shall carry on the research activity by itself.

(3) The research association seeking approval under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain books of account and get such books audited by an accountant as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the

return of income under sub-section (1) of section 139.

(4) The research association shall maintain a separate statement of donations received and amount applied for scientific research or research in social science or statistical research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

(5) The research association shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing-

(i) a detailed note on the research work undertaken by it during the previous year;

(ii) a summary of research articles published in national or international journals during the year;

(iii) any patent or other similar rights applied for or registered during the year;

(iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.

(6) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the research association,-

(a) is not maintaining books of account, or

(b) has failed to furnish its audit report, or

(c) has not furnished its statement of the sums received and the sums applied for scientific research or research in social science or statistical research or a statement referred to in sub-rule (5), or

(d) has ceased to carry on its research activities, or its activities are not genuine, or

(e) is not fulfilling the conditions subject to which approval was granted to it, he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under sub-section (1) of section 139.]

6. Substituted by the Income-Tax (Fourth Amendment) Rules, 2011 vide Circular No. 19/2011 dated 05.04.2011 for the following :-

"5D. Conditions subject to which approval is to be granted to a Scientific Research Association under clause (ii) of sub-section (1) of section 35.--

(1) The sole object of the applicant scientific research association shall be to undertake scientific research.

(2) The applicant scientific research association shall carry on the scientific research activity by itself.

(3) The scientific research association seeking approval under clause (ii) of sub-section (1) of section 35 shall maintain books of account and get such books audited by an accountant as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

(4) The scientific research association shall maintain a separate statement of donations received and amount applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

<sup>3</sup>[(4A) The scientific research association shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing-

(i) a detailed note on the research work undertaken by it during the previous year;

(ii) a summary of research articles published in national or international journals during the year;

(iii) any patent or other similar rights applied for or registered during the year;

(iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme]

(5) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the scientific research association,

(a) is not maintaining books of account, or

(b) has failed to furnish its audit report, or

(c) has not furnished its statement of the sums received and the sums applied for scientific research <sup>3</sup>[or a statement referred to in sub-rule (4A)], or

(d) has ceased to carry on its research activities, or its activities are not genuine, or

(e) is not fulfilling the conditions subject to which approval was granted to it

he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under sub-section (1) of section 139.

**5E. Conditions subject to which approval is to be granted to a University, College or other Institution under clause (ii) and clause (iii) of sub-section (1) of section 35 :-**

(1) The sum paid to a university, college or other institution shall be used for scientific research and research in social science or statistical research.

(2) The applicant university, college or other institution shall carry

out scientific research, research in social science or statistical research through its faculty members or its enrolled students.

(3) A university or college or other institution approved under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain separate books of account in respect of the sums received by it for scientific research or, as the case may be, for research in social science or statistical research, reflect therein the amount used for carrying out research, get such books of account audited by an accountant, as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

(4) The university or college or other institution shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

<sup>3</sup>[(4A) The university, college or other institution shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing,-

(i) a detailed note on the research work undertaken by it during the previous year;

(ii) a summary of research articles published in national or international journals during the year;

(iii) any patent or other similar rights applied for or registered during the year;

(iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme]

(5) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the university or college or other institution,-

(a) is not maintaining separate books of account for research activities, or

(b) has failed to furnish its audit report, or

(c) has not furnished its statement of the sums received and the sums used for research <sup>3</sup>[or a statement referred to in sub-rule (4A)], or

(d) has ceased to carry on its research activities, or its activities are not genuine, or

(e) is not fulfilling the conditions subject to which approval was granted to it,

he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under section 139(1).]

3. Inserted by the Income-tax (2nd Amendment) Rules, 2009 vide Notification No. 02/2009 dated 05.01.2009, w.e.f 01.04.2008.

**5F. Prescribed authority, guidelines, form, manner and conditions for approval under clause (iia) of sub-section (1) of section 35 :-**

<sup>2</sup>[5F. Prescribed authority, guidelines, form, manner and conditions for approval under clause (iia) of sub-section (1) of section 35.--

(1) For the purposes of clause (iia) of sub-section (1) of section 35, the prescribed authority shall be the Chief Commissioner of Income-tax having jurisdiction over the applicant.

(2) Guidelines, form and manner in respect of approval under clause (iia) of sub-section (1) of section 35 shall be as under: -

(a) An application for approval under clause (iia) of sub-section (1) of section 35 by a company shall be made in duplicate in Form No. 3CF-III, to the Commissioner of Income-tax having jurisdiction over the applicant, at any time during the financial year immediately preceding the assessment year from which the approval is sought.

(b) The applicant shall send a copy of the application in Form No. 3CF-III to the prescribed authority, accompanied by the acknowledgement receipt as evidence of having furnished the application form in duplicate in the office of the Commissioner of Income-tax having jurisdiction over the case.

(c) Every notification under clause (iia) of sub-section (1) of section 35 shall be issued or an order rejecting the application shall be passed within a period of twelve months from the end of the month in which the application was received in the office of the Chief Commissioner of Income-tax.

(d) If any defect is noticed in the application in Form No. 3CF-III or if any relevant document is not attached thereto, the Commissioner of Income-tax shall serve a deficiency letter on the applicant before the expiry of one month from the date of receipt of the application form in his office.

(e) The applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or

within such further period which, on an application made in this behalf may be extended, so however, that the total period for removal of deficiency does not exceed thirty days, and if the applicant fails to remove the deficiency within the period of thirty days so allowed, the Commissioner of Income -tax shall send his recommendation to the Chief Commissioner of Income- tax for treating the application as invalid.

(f) The Chief Commissioner of Income -tax may, after examining the recommendations referred to in clause (e), pass an order that the application is invalid.

(g) If the application form is complete in all respects, the Commissioner of Income -tax may, make such inquiry as he may consider necessary regarding the genuineness of the activity of the company and send his recommendation to the Chief Commissioner of Income -tax for grant of approval or rejection of the application before the expiry of the period of three months to be reckoned from the end of the month in which the application form was received in his office.

(h) The Chief Commissioner of Income -tax may, before granting approval under clause (iia) of sub-section (1) of section 35, call for such documents or information from the applicant as it considers necessary and may get any inquiry made for verification of the genuineness of the activity of the applicant.

(i) The Chief Commissioner of Income -tax may, under sub-section (1) of section 35, issue the notification to be published in the Official Gazette granting approval to the company or for reasons to be recorded in writing reject the application.

(j) The Chief Commissioner of Income -tax may withdraw the approval granted under clause ( iia ) of sub-section (1) of section 35 if he is satisfied that the company has ceased to carry on its activities or its activities are not genuine or are not being carried on in accordance with all or any of the conditions under this rule:

Provided that no order treating the application as invalid or rejecting the application or withdrawing the approval shall be passed without giving a reasonable opportunity of being heard to the company.

(k) A copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant, the Assessing Officer and the Commissioner of Income -tax.

(3) Approval to a company under clause ( iia ) of sub-section (1) of section 35 shall be subject to the following conditions, namely:-

(a) The sum paid to the company shall be used for scientific

research;

(b) The applicant company shall carry on scientific research through its own employees using its own assets;

(c) A company approved under clause (iia ) of sub-section (1) of section 35 shall maintain separate books of account in respect of the sums received by it for scientific research, reflect therein the amount used for carrying on research, get such books of account audited by an accountant, and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income -tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

Explanation .- For the purpose of this clause "accountant" shall have the same meaning as assigned to it in Explanation to sub-section (2) of section 288 of the Act.

(d) The company shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

(e) Subsequent to approval, the company shall, every year, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of income-tax containing the following information, namely: -

(i) a detailed note on the research work undertaken by it during the previous year;

(ii) a summary of research articles published in national or international journals during the year;

(iii) any patents or other similar rights applied for or registered during the year;

(iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such subjects.

(f) If the Commissioner of Income -tax is satisfied that the company,-

(i) is not maintaining separate books of account for research activities, or

(ii) has failed to furnish its audit report, or

(iii) has not furnished its statement of the sums received and the sums used for research, or a statement referred to in sub-clause (e),or

(iv) has ceased to carry on its research activities, or its activities are not genuine, or

(v) is not fulfilling the conditions subject to which approval was



granted to it, he may after making appropriate enquiries, furnish a report on the circumstances referred to in sub-clauses (i) to (v) to the jurisdictional Chief Commissioner of Income-tax within six months from the date of furnishing the return of income under sub-section (1) of section 139.]

2. Inserted by the Income-tax (Tenth Amendment) Rules, 2008 vide Notification No. 107/2008 dated 11.12.2008.

## **6. Prescribed authority for expenditure on scientific research :-**

(1) For the purposes of [2[clause (i) of]sub-section (1) and sub-section (2A) of] section 35, the prescribed authority shall be the Director General (Income-tax Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research, Government of India.

**13**[(1A) For the purposes of sub-section (2AA) of section 35, the prescribed authority shall be-

(a) 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

(b) in the case of a specified person, the Principal Scientific Adviser to the Government of India.]

**3**[(1B) For the purposes of sub-section (2AB) of section 35, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research.

**17**[\*\*\*]

**4**[(3) The application for obtaining approval under sub-section (2AA) of section 35 shall be made by a sponsor in Form No.3CG.

Explanation : For the purposes of this rule "sponsor" means a person who makes an application in Form No. 3CG.]

**5**[(4) The application required to be furnished by a company under sub-section (2AB) of section 35 shall be in Form No. 3CK.

**6**[(5) The head of the National Laboratory or the University or the Indian Institute of Technology 14[or the Principal Scientific Adviser to the Government of India] shall, if he is satisfied that it is feasible to carry out the scientific research programme then, subject to other conditions prescribed in this rule and section 35 (2AA) of the Act, pass an order in writing in Form No. 3CH :

Provided that a reasonable opportunity of being heard shall be

granted to the sponsor before rejecting an application :

Provided further that an order under this rule shall be passed within two months of the receipt of the application under sub-rule (1A) .

**16**[Provided also that the Principal Scientific Adviser to the Government of India may authorise an, officer who is not below the rank of a Deputy Secretary to issue such order, after the scientific research programme has been approved by him.]

**7**[(5A) The prescribed authority shall, if he is satisfied that the conditions provided in this rule and in sub-section (2AB) of section 35 of the Act are fulfilled, pass an order in writing in form No. 3CM :

Provided that a reasonable opportunity of being heard shall be granted to the company before rejecting an application.] **8**[\*\*\*]

**9**[(6) The National Laboratory **15**[University, Indian Institute of Technology or specified person] shall issue a receipt of payment for carrying out an approved programme of scientific research under sub-section (2AA) in Form No. 3CI.]

**11**[(7) Approval of a programme under sub-section (2AA) shall be subject to the following conditions:--

(a) The programme should not relate purely to market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection or activities of a like nature ;

(b) The prescribed authority shall submit its report to the Director General (Income-tax Exemptions) in Form No. 3CJ within a period of three months from the date of granting approval to the programme ;

**16**[Provided that the officer authorised by the prescribed authority, being the Principal Scientific Adviser to the Government of India, under sub-rule (5) shall submit such report to the Director General (Income-tax Exemptions) ;]

(c) The sponsor and the National Laboratory, **15**[University, Indian Institute of Technology or specified person], as the case may be, shall submit to the Director General (Income-tax Exemptions) a yearly statement showing progress of implementation of the approved programme and actuals of expenditure incurred thereon ;

(d) The prescribed authority shall not extend the duration of the programme or approve any escalation in costs ;

(e) The National Laboratory, **15**[University, Indian Institute of Technology or specified person], as the case may be, shall maintain a separate account for each approved programme; which shall be audited annually and a copy thereof shall be furnished to the

Director General (Income-tax Exemptions) by 31st day of October of each succeeding year ;

(f)) Assets acquired by the prescribed authority for executing the approved programme shall not be disposed of without the approval of the Director General (Income-tax Exemptions) ;

(g) On completion of the approved programme, a completion certificate along with a copy of the report on the research activities carried out and salient features of the result obtained and its further application for commercial exploitation shall be jointly submitted by the sponsor and the National Laboratory<sup>15</sup>[University, Indian Institute of Technology or specified person ]to the Director General (Income-lax Exemptions) ;

(h) A copy of the audited statement of accounts for the approved programme shall be submitted by the Head of the National Laboratory, University or Indian Institute of Technology <sup>14</sup>[or the Principal Scientific Adviser to the Government of India] to the Director General (Income-tax Exemptions) within six months of the completion of the programme.)

<sup>12</sup>[(7A) Approval of expenditure incurred on in-house research and development facility by a company under sub-section (2AB) of section 35 shall be subject to the following conditions, namely :--

(a)) The facility should not relate purely to market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection or activities of a like nature;

(b)) The prescribed authority shall submit its report in relation to the approval of in-house Research and Development facility in Form No. 3CL to the Director General (Income-tax Exemptions) within sixty days of its granting approval;

(c)) The company shall maintain a separate account for each approved facility; which shall be audited annually and a copy thereof shall be furnished to the Secretary, Department of Scientific and Industrial Research by 31st day of October of each succeeding year.

Explanation : For the puiposes of this sub-rule the expression "audited" means the audit of accounts by an accountant, as defined in the Explanation below sub-section (2) of section 288 of the Income-tax Act, 1961;

(d)) Assets acquired in respect of development of scientitic research and development facility shall not be disposed off without the approval of the Secretary, Department of Scientific and Industrial Research.

2 Inserted by the IT (Twenty-second Amdt.) Rules, 1999, w.e.f. 25-6-1999.

3 Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

4 Inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993.

5 Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998. Earlier sub-rule (4) , as inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993, and later on omitted by the IT (Ninth Amdt.) Rules, 1996, w.e.f. 1-10-1996, read as under :

"(4) The Secretary, Department of Scientific and Industrial Research shall, within eight weeks of the receipt of an application to the Director General (Income-tax Exemptions) ."

6 Substituted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996. Prior to its substitution, sub-rule (5) , as inserted by the IT (Sixteenth Amendment) Rules, 1993, w.e.f. 15-9-1993, read as under :

"(5) The Director General (Income-tax Exemptions) shall within four weeks of the receipt of the decision conveyed by the Secretary, Department of Scientific and Industrial Research, issue an order of programme in Form No. 3CH."

7. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

8. Second proviso omitted by the IT (Twenty-sixth Amdt.) Rules, 1999, w.e.f. 5-7-1999. Prior to its omission, second proviso, as inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998, read as under :

"Provided further that an order under this rule shall be passed within two months of the receipt of application under sub-rule (4) ."

9. Inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993.

11. Substituted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996. Prior to its substitution, sub-rule (7) was inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993 and later amended by the IT (Eleventh Amdt.) Rules, w.e.f. 23-11-1994.

12. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

13. Substituted by the IT (Eighteenth Amdt. ) Rules 2001 w.e.f. 08-08-2001. Prior to its substitution sub Rule 1A read as under :

(1A) For the purposes of sub-section (2AA) of section 35, the prescribed authority shall be the head of the National Laboratory or the University or the Indian Institute of Technology, as the case may be.

14 Inserted by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 08-08-2001.

15 Substituted for "University or Indian Institute of Technology " by the IT (Eighteenth Amdt.) Rules 2001 w.e.f. 08-08-2001

16 Inserted by Income-tax (Twelfth Amendment) Rules, 2004.

17 Omitted by the Income-tax (Twelfth Amendment) Rules, 2006 dated 30.10.2006. Earlier the provision read as ---

"(2) The application required to be furnished by a scientific or industrial research organisation or institution under clause (ii) or (iii) of sub-section (1) of section 35 shall be in Form No. 3CF."

**6A. Omitted :-**

[Omitted by the IT (Thirty-Second Amdt.) Rules, 1999, w.e.f 19-11-1999]

**6AA. Omitted :-**

Prescribed activities for export markets development allowance.

Omitted by the IT (Thirty-second Amdt) Rules, 1999, w.e.f. 19-11-1999.

**6AAA. Prescribed authority for the purposes of sections 35CC and 35CCA :-**

For the purposes of sections 35CC and 35CCA,--

(i) the "prescribed authority" to approve the programme of rural development referred to in sub-section (1) of sections 35CC and in clause (a) of sub-section (1) of section 35CCA shall be the Committee consisting of the following, namely:--

(a) The Chief Commissioner or Commissioner of Income-tax who exercises jurisdiction over the State or, as the case may be, the Union territory in which the programme of rural development is to be carried out--Chairman ;

(b) An officer not below the rank of a Secretary to the Government of the State or, as the case may be, the Union territory in which the programme of rural development is to be carried out--Member;

(ii) the "prescribed authority" to approve an association or institution referred to in clause (a) or clause (b) of sub-section (1) of section 35CCA shall be the Committee consisting of the following, namely :--

(a) The Chief Commissioner or Commissioner of Income-tax, who

exercises jurisdiction over the State or, as the case may be, the Union territory in which the principal office of the association or institution is situated--Chairman ;

(b) An officer not below the rank of a Secretary to the Government of the State or, as the case may be, the Union territory in which the principal office of the association or institution is situated--Member :

Provided that where in a case whether falling under clause (i) or clause (ii) two or more Commissioners exercise jurisdiction over the State or, as the case may be, the Union territory, the Board may, by notification in the Official Gazette, empower the Chief Commissioner or Commissioner] specified in this behalf to be the Chairman of the Committee.

Explanation : In this rule, "programme of rural development" shall have the meaning assigned to it in the Explanation to sub-section (1) of sections 35CC of the Income-tax Act.

**6AAB. Omitted :-**

[Omitted by the IT (Thirty-Second Amdt.) Rules, 1999, w.e.f 19-11-1999]

**6AAC. Prescribed authority for the purposes of section 35CCB. :-**

For the purposes of section 35CCB, the "prescribed authority" shall be the Secretary, Department of Environment, Government of India.

**6AAD. Guidelines for approval of agricultural extension project under section 35CCC. :-**

<sup>2</sup>[6AAD. Guidelines for approval of agricultural extension project under section 35CCC.

(1) The agricultural extension project shall be considered for notification if it fulfils all of the following conditions, namely:-

(i) the project shall be undertaken by an assessee for training, education and guidance of farmers;

(ii) the project shall have prior approval of the Ministry of Agriculture, Government of India; and

(iii) an expenditure (not being expenditure in the nature of cost of any land or building) exceeding the amount of twenty-five lakh rupees is expected to be incurred for the project.

(2) Before undertaking any agricultural extension project, an assessee shall make an application in Form No. 3C-O to the Member (IT), Central Board of Direct Taxes for notification of such project under sub-section (1) of section 35CCC.

(3) The application referred to in sub-rule (2) shall be accompanied by the following, namely:-

(a) a detailed note on the agricultural extension project to be undertaken by the assessee;

(b) details of the expenditure expected to be incurred on the project and expected date of completion of the project; and

(c) a letter approving the project and specifying the amount of expenditure expected to be incurred on the project from the Ministry of Agriculture, Government of India.

(4) Where any defect is noticed in the application referred to in sub-rule (2) or a relevant document is not attached thereto, the Central Board of Direct Taxes shall, before the expiry of one month from the date of receipt of the application in its office, intimate the defect to the applicant for its rectification.

(5) The applicant shall remove the defect within a period of fifteen days from the date of such intimation or within such further period as may be extended by the Central Board of Direct Taxes, on an application made in this behalf by the applicant, so however, that the total period for removal of defect does not exceed thirty days, and if the applicant fails to remove the defect within such period as allowed, the Central Board of Direct Taxes shall pass an order treating the application as invalid.

(6) If the application form is complete in all respects, the Central Board of Direct Taxes shall, within a period of one month from the end of the month in which it receives the application form complete in all respects, issue under sub-section (1) of section 35CCC, a notification in Form No. 3CP to be published in Official Gazette specifying the agricultural extension project, subject to the conditions mentioned in rule 6AAE or such other conditions, as it may deem fit, to be effective for such period not exceeding three assessment years.

(7) The assessee, may, at least two months before the expiry of the effective period of the notification issued under sub-rule (6), make an application to the Central Board of Direct Taxes for notification of such project for a further period.

(8) The Central Board of Direct Taxes shall, after receiving the application under sub-rule (7), call for a report from the Commissioner of Income-tax or the Director of Income-tax, as the

case may be, having jurisdiction over the case regarding the activities of the agricultural extension project during the period of notification and fulfillment of conditions mentioned in rule 6AAE and any other conditions subject to which the agricultural extension project was notified under sub-rule (6).

(9) On being satisfied with the report received under sub-rule (8) on the agricultural extension project, the Central Board of Direct Taxes may, within a period of three months from the end of the month in which it receives application referred to in sub-rule (7), notify the said project for a further period not exceeding three assessment years.

(10) A copy of the notification issued under sub-rule (6) or, as the case may be, under sub-rule (9) shall be sent to the applicant, the Ministry of Agriculture, Government of India, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, the Department of Agriculture of the concerned State and the Agricultural Technology Management Agency of the concerned District.

(11) The Central Board of Direct Taxes may, on being satisfied that the assessee has ceased its activities, or that its activities are not genuine or that its activities are not being carried out in accordance with all or any of the relevant provisions of the Act or this rule or rule 6AAE, or its activities are not being carried out in accordance with all or any of the conditions subject to which the notification was issued, pass an order for rescission of the notification issued under sub-rule (6) or sub-rule (9).

(12) Before any order is passed treating the application as invalid or rejecting it or rescinding the notification, an opportunity of being heard in the matter shall be given to the assessee.

(13) A copy of the order invalidating or rejecting the application or rescinding the notification shall be sent to the applicant, the Ministry of Agriculture, Government of India, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, the Department of Agriculture of the concerned State and Agricultural Technology Management Agency of the concerned district." ]

1. Inserted by the Income-tax (Fourth Amendment) Rules, 2013 vide Notification No. 38/2013 dated 30.05.2013.

2. Substituted by Income-tax (3rd Amendment) Rules, 2014 vide notification No. 18/2014 w.e.f 21.03.2014 for the following:-

<sup>1</sup>[6AAD. Guidelines for approval of agricultural extension project under section 35CCC.

(1) The agricultural extension project shall be considered for



notification if it fulfils all of the following conditions namely:-

- (i) the project shall be undertaken by an assessee for training, education and guidance of farmers;
- (ii) the project shall have prior approval of the Ministry of Agriculture, Government of India; and
- (iii) the expenditure (not being expenditure in the nature of cost of any land or building) exceeding an amount of twenty-five lakh rupees is expected to be incurred for the project.

(2) An assessee, before undertaking any agricultural extension project, shall make an application for notification of such project under sub-section (1) of section 35CCC, in duplicate, in Form No. 3C-O, to the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the assessee.

(3) The assessee shall also send a copy of the application in Form No. 3C-O to the Member (IT), Central Board of Direct Taxes (hereinafter referred to as the CBDT) accompanied by the acknowledgement receipt, as evidence of having furnished the application form in duplicate, in the office of the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case.

(4) The application shall be accompanied by the following, namely:-

-

- (a) a detailed note on the agricultural extension project to be undertaken by the assessee;
- (b) details of the expenditure expected to be incurred on the project and expected date of completion of the project; and
- (c) a letter approving the project and specifying the amount of expenditure expected to be incurred on the project from the Ministry of Agriculture, Government of India.

(5) If any defect is noticed in the application referred to in sub-rule (2) or if any relevant document is not attached thereto, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, shall, before the expiry of one month from the date of receipt of the application in his office, intimate the defect to the applicant for its rectification.

(6) The applicant shall remove the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, as may be extended by the Commissioner of Income-tax or the Director of Income-tax, as the case may be, so however, that the total period for removal of defect does not exceed thirty days, and if the applicant fails to remove the defect within such period so allowed, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, shall send his recommendation for treating the application as invalid to the CBDT.

(7) On receipt of recommendation of the Commissioner of Income-tax or the Director of Income-tax, as the case may be, under sub-rule (6), the CBDT, if satisfied, may pass an order treating the application as invalid.

(8) If the application form is complete in all respects, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, may make such inquiry or call for such documents from the assessee as he may consider necessary for satisfying himself regarding the genuineness of the current and proposed activities of the assessee, and send his recommendation to the CBDT for grant of approval or rejection of the application before the expiry of the period of two months to be reckoned from the end of the month in which the application form complete in all respects was received in his office.

(9) The CBDT may, before notifying an agricultural extension project under section 35CCC, call for such documents from the assessee, as it considers necessary, and may also get any inquiry made for verification of the genuineness of the activities of the assessee.

(10) The CBDT may, within a period of three months from the end of the month in which it receives the report referred to in sub-rule (8) from the Commissioner of Income-tax or the Director of Income-tax, as the case may be, under sub-section (1) of section 35CCC, issue a notification in Form No. 3CP to be published in the Official Gazette specifying the agricultural extension project subject to conditions mentioned in rule 6AAE or such other conditions, as it may deem fit, to be effective for such period not exceeding three assessment years or pass an order rejecting the application.

(11) If the CBDT is satisfied with the activities of the agricultural extension project during the period of notification, it may notify the said project for a further period.

(12) A copy of the notification issued under sub-rule (10) or sub-rule (11) shall be sent to the applicant, Ministry of Agriculture, Government of India, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, the Department of Agriculture of the concerned State, and the Agricultural Technology Management Agency (ATMA) of the concerned District(s).

(13) The CBDT may rescind the notification issued under sub-rule (10) or sub-rule (11) at any time, if it is satisfied that the assessee has ceased its activities or its activities are not genuine or are not being carried out in accordance with all or any of the relevant provisions of the Act or this rule or rule 6AAE or are not being carried out in accordance with all or any of the conditions subject to which the notification was issued.

(14) An order treating the application as invalid or rejecting or rescinding the notification shall not be passed unless the assessee has been given an opportunity of being heard in the matter.

(15) A copy of any order invalidating or rejecting the application or rescinding the notification shall be sent to the applicant, Ministry of Agriculture, Government of India, the Commissioner of Income-tax or the Director of Income-tax, as the case may be, the Department of Agriculture of the concerned State, and the Agricultural Technology Management Agency (ATMA) of the concerned District(s).]

**6AAE. Conditions subject to which an agricultural extension project is to be notified under section 35CCC :-**

<sup>1</sup>[6AAE. Conditions subject to which an agricultural extension project is to be notified under section 35CCC.--

(1) The assessee undertaking agricultural extension project shall maintain separate books of account of the agricultural extension project notified under sub-section(1) of section 35CCC, and get such books of account audited by an accountant as defined in the Explanation below sub-section (2) of section 288.

(2) The audit report referred to in sub-rule (1) shall include the comments of the auditor on the true and fair view of the books of account maintained for agricultural extension project, the genuineness of the activities of the agricultural extension project and fulfillment of the conditions specified in the relevant provisions of the Act or the rules or the conditions mentioned in the <sup>2</sup>[notification issued under sub-rule (6) or sub-rule (9) of rule 6AAD].

(3) The assessee shall not accept an amount exceeding the amount as approved in the notification from the beneficiary under the eligible agricultural extension project for training, education, guidance or any material distributed for the purposes of such training, education or guidance.

(4) The assessee shall not get any direct or indirect benefit from the notified agricultural extension project except the deduction of the eligible expenditure in accordance with the provisions of section 35 CCC of the Act, rule 6AAD and this rule.

(5) All expenses (not being expenditure in the nature of cost of any land or building), as reduced by the amount received from beneficiary, if any, incurred wholly and exclusively for undertaking an eligible agricultural extension project shall be eligible for deduction under section 35CCC:

Provided that any expenditure incurred on the agricultural extension project which is reimbursed or reimbursable to the assessee by any person, whether directly or indirectly, shall not be eligible for deduction under section 35CCC.

(6) The assessee shall, on or before the due date of furnishing the return of income under sub-section (1) of section 139, furnish the following to the Commissioner of Income-tax or the Director of Income-tax, as the case may be, namely:-

(a) the audited statement of accounts of the agricultural extension projects for the previous year along with the audit report and amount of deduction claimed under sub-section (1) of section 35CCC;

(b) a note on the agricultural extension project undertaken by it during the previous year and the programme of agricultural extension project to be undertaken during the current year and the financial allocation for such programme; and

(c) a certificate from the Ministry of Agriculture, Government of India, regarding the genuineness of the agricultural extension project undertaken by the assessee during the previous year.

(7) If the Commissioner of Income-tax or the Director of Income-tax, as the case may be, is satisfied that the,---

(a) assessee has not maintained separate books of account for the agricultural extension project or has not got such books of account audited by an accountant in accordance with sub-rule (1);

(b) assessee has not furnished the documents referred to in sub-rule (6);

(c) assessee has ceased to carry out activities of agricultural extension project;

(d) activities of agricultural extension project of the assessee are not genuine; or

(e) activities of the agricultural extension project are not being carried out in accordance with the relevant provisions of the Act or the rules or the conditions subject to which the notification was issued,

he may, after making appropriate inquiries, furnish a report on the circumstances referred to in clause (a) to (e) to the CBDT<sup>3</sup>[for appropriate action as per the provisions of sub-rule (11) of rule 6AAD].]

1. Inserted by the Income-tax (Fourth Amendment) Rules, 2013 vide Notification No. 38/2013 dated 30.05.2013.

2. Substituted by Income-tax (3rd Amendment) Rules, 2014 vide notification No. 18/2014 w.e.f 21.03.2014 for the following:- "notification issued under sub-rule (10) or sub-rule (11) of rule 6AAD"

3. Substituted by Income-tax (3rd Amendment) Rules, 2014 vide notification No. 18/2014 w.e.f 21.03.2014 for the following:- "for appropriate action as per the provisions of sub-rule (13) of rule 6AAD"

**6AAF. Guidelines for approval of skill development project**

## **under section 35 CCD :-**

<sup>1</sup>[6AAF. Guidelines for approval of skill development project under section 35 CCD.--

(1) A skill development project shall be considered for notification if it is undertaken by an eligible company and the project is undertaken in separate facilities in a training institute.

(2) The eligible company, before undertaking any skill development project, shall make an application for notification of such project under sub-section (1) of section 35CCD, in duplicate, in Form No. 3CQ, to the National Skill Development Agency (hereinafter referred to as the NSDA).

(3) The eligible company shall also send a copy of the application in Form No. 3CQ to the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case, accompanied by the acknowledgement receipt as evidence of having furnished the application form in duplicate to the NSDA.

(4) The application shall be accompanied by the following, namely:-

(a) detailed note on the skill development project to be undertaken by the eligible company;

(b) details of the expenditure expected to be incurred on the project and expected date of completion of the project; and

(c) a letter of concurrence from the training institute in which the skill development project is to be undertaken.

(5) If any defect is noticed in the application referred to in sub-rule (2) or if any relevant document is not attached thereto, the NSDA shall, before the expiry of one month from the date of receipt of the application in its office, intimate the defect to the applicant for its rectification.

(6) The applicant shall remove the defect within a period of fifteen days from the date of such intimation or within such further period as, on an application made in this behalf, may be extended by the NSDA, so however, that the total period for removal of the defect does not exceed thirty days, and if the applicant fails to remove the defect within such period so allowed, the NSDA shall send its recommendation for treating the application as invalid to the CBDT.

(7) On receipt of recommendation of the NSDA under sub-rule (6), the CBDT, if satisfied, may pass an order treating the application as invalid.

(8) If the application form is complete in all respects, the NSDA may make such inquiry or call for such documents from the eligible company or the training institute as it may consider necessary for

satisfying itself regarding the genuineness of the current and proposed activity of the applicant and send its recommendation to the CBDT for grant of approval or rejection of the application before the expiry of the period of two months to be reckoned from the end of the month in which the application form complete in all respects was received in its office.

(9) The Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case shall send his recommendation to the NSDA for grant of approval or rejection of the application, after considering the compliance of the applicant with the various provisions of Income-tax Act, 1961 and Wealth-tax Act, 1957, before the expiry of the period of one month to be reckoned from the end of the month in which the copy of the application was received in his office.

(10) If the NSDA recommends the grant of approval under sub-rule (8), the CBDT shall, within a period of fifteen days from the end of the month in which it receives the report from the NSDA, under sub-section (1) of section 35CCD, issue a notification in Form No. 3CR to be published in the Official Gazette specifying the skill development project subject to conditions mentioned in rule 6AAG or such other conditions, as it may deem fit, to be effective for such period not exceeding three assessment years and if the NSDA recommends the rejection of the application under sub-rule (8), the CBDT shall pass an order rejecting the application.

(11) If the CBDT is satisfied with the activities of the skill development project during the period of notification, it may notify the said project for a further period in consultation with the NSDA.

(12) A copy of the notification issued under sub-rule (10) or sub-rule (11) shall be sent to the applicant, the NSDA, the training institute and the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case.

(13) The CBDT may rescind the notification issued under sub-rule (10) or sub-rule (11) at any time, if it is satisfied that the eligible company or the training institute, as the case may be, has ceased its activities or its activities are not genuine or the activities of the skill development project are not being carried out in accordance with all or any of the relevant provisions of the Act or this rule or rule 6AAG or the conditions subject to which the notification was issued.

(14) An order rescinding the notification shall not be passed unless the applicant has been given an opportunity of being heard in the matter.

(15) A copy of any order invalidating or rejecting the application or rescinding the notification shall be sent to the applicant, the training institute, the NSDA and the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case.]

**6AAG. Conditions subject to which a skill development project is to be notified under section 35CCD :-**

<sup>1</sup>[6AAG. Conditions subject to which a skill development project is to be notified under section 35CCD.--

(1) The company undertaking skill development project shall maintain separate books of account of the skill development project notified under sub-section(1) of section 35CCD, and get such books of account audited by an accountant as defined in the Explanation below sub-section(2) of section 288.

(2) The audit report referred to in sub-rule (1) shall include the comments of the auditor on the true and fair view of the books of account maintained for skill development project, the genuineness of the activities of the skill development project and fulfillment of the conditions specified in the relevant provisions of the Act or the rules or the conditions mentioned in the notification issued under sub-rule (10) or sub-rule (11) of rule 6AAF.

(3) A skill development project in respect of existing employees of the company shall not be eligible for notification under sub-section (1) of section 35CCD, where the training of such employees commences after six months of their recruitment.

(4) All expenses (not being expenditure in the nature of cost of any land or building), incurred wholly and exclusively for undertaking a notified skill development project shall be eligible for deduction under section 35CCD:

Provided that any expenditure incurred on the skill development project which is reimbursed or reimbursable to the company by any person, whether directly or indirectly, shall not be eligible for deduction under section 35CCD.

(5) The company shall, on or before the due date of furnishing the return of income under sub-section (1) of section 139, furnish the audited statement of accounts of the skill development project for the previous year along with the audit report and amount of deduction claimed under sub-section (1) of section 35CCD to the Commissioner of Income-tax or the Director of Income-tax, as the case may be.

(6) If the Commissioner of Income-tax or the Director of Income-tax, as the case may be, is satisfied that the,-

(a) company has not maintained separate books of account for the skill development project or has not got such books of account audited by an accountant in accordance with sub-rule (1);

(b) company has not furnished the documents referred to in sub-rule (5);

(c) company has ceased to carry out activities of skill development project;

(d) activities of skill development project of the company are not genuine; or

(e) activities of the skill development project of the company are not being carried out in accordance with the relevant provisions of the Act or the rules or the conditions subject to which the notification was issued,

he shall, after making appropriate inquiries, furnish a report on the circumstances referred to in clause (a) to (e) to the CBDT for appropriate action under sub-rule (13) of rule 6AAF.

(7) If the NSDA is not satisfied about the genuineness of the activities of the notified skill development project, the NSDA shall send its recommendation to the CBDT for appropriate action under sub-rule (13) of rule 6AAF.]

**6AAH. Meaning of expressions used in rule 6AAF and rule 6AAG :-**

<sup>1</sup>[6AAH. Meaning of expressions used in rule 6AAF and rule 6AAG.-  
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For the purposes of rule 6AAF and rule 6AAG -

- (i) "eligible company" means a company, which is-
- (a) engaged in the business of manufacture or production of any article or thing, not being an article or thing mentioned at serial number 1 and serial number 2 of the list of articles or things specified in the Eleventh Schedule; or
- (b) engaged in providing services mentioned in column (2) of the Table below:

**TABLE**

<b>S. No.</b>	<b>Particulars</b>
<b>(1)</b>	<b>(2)</b>
1.	Accounting services



2.	Architect services
3.	Automobile repair or maintenance
4.	Banking, insurance and financial services including ATM installation, maintenance and operations or banking correspondents or insurance agents
5.	Beauty and cosmetology, including hair styling or manicurists or pedicurists
6.	Cable operators or Direct To Home (DTH) services
7.	Cargo Handling and stevedoring services
8.	Construction including painting or woodwork or plumbing or flooring or electrical wiring or installation or maintenance of lifts
9.	Courier services
10.	Design services including fashion or gems and jewellery or apparel or industrial designing
11.	Event management
12.	Facilities management, housekeeping, cleaning services
13.	Fire and safety services
14.	Food processing or preservation services, including post harvesting and post farm-gate skills
15.	Health and Wellness services including spa or nutritionists or weight management or health instructors or yoga or gym trainers
16.	Home decor services, landscaping
17.	Hospital and Healthcare services, such as Lab technicians, nursing and other paramedical staff
18.	Hospitality, including culinary skills or catering services
19.	Logistics and Transportation by any mode, including by air, sea, road, rail or pipelines, and related services such as driving or operation of heavy machinery equipment, forwarding agents, packers and movers
20.	Market research services
21.	Media or film or advertising
22.	Mining and extraction of mineral resources, including hydrocarbons
23.	Packaging and Warehousing, including both ambient temperature storage and cold storage, operation of Internal Container Depots and Container Freight Stations
24.	Port and maritime services such as dredging, piloting, tug boat operations, shipbuilding, ship scrapping, bunkering
25.	Power Sector Services, including those required for erection or installation or maintenance of equipment or towers, etc. in generation, transmission or distribution sector projects
26.	Private Security, including guards, supervisors, installation and maintenance of security equipment etc.
27.	Refrigeration and air-conditioning
28.	Repair and maintenance services, including Installation and servicing of household goods or white goods
29.	Retail marketing, including shop floor assistants or merchandisers
30.	Telecom services, including erection and maintenance of towers

31.	Travel and tourism, including guides or ticketing or sales or cab drives
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<sup>2</sup>[(ii) "Training institute" means a training institute,--

(a) set up by the Central Government or a State Government or a local authority;  
(b) affiliated to the National Council for Vocational Training or a State Council for Vocational Training;

(c) affiliated to, or approved by, or empanelled by, the National Skill Development Agency;

(d) affiliated to, or approved by, or empanelled by, the Central Government and certified by the National Council for Vocational Training as having training standards equivalent to training institutes affiliated to the National Council for Vocational Training; or

(e) affiliated to, or approved by or empanelled by, the State Government and certified by the National Council for Vocational Training or a State Council for Vocational Training as having training standards equivalent to training institutes affiliated to the National Council for Vocational Training or, as the case may be, the State Council for Vocational Training.]

(iii) "National Council for Vocational Training" means the National Council for Training in Vocational Trades established by the resolution of the Government of India in the Ministry of Labour (Directorate General of Resettlement and Employment) No. TR/E.P. - 24/56, dated the 21st August 1956 and re-named as the National Council for Vocational Training by the resolution of the Government of India in the Ministry of Labour (Directorate General of Employment and Training) No. DGET/12/21/80-TC, dated the 30th September, 1981.

(iv) "State Council for Vocational Training" means a State Council for Training in Vocational Trades established by the State Government.]

<sup>3</sup>[(v) National Skill Development Agency means the agency constituted by the Government of India vide notification No. 14/27/2012-EC, dated the 6th June, 2013.]

1. Inserted by the Income-tax (10th Amendment) Rules, 2013 vide Notification No. 54/2013 dated 15.07.2013.

2. Substituted by the Income-tax (2nd Amendment) Rules, 2014 vide Notification No. 16/2014 dated 20.03.2014 w.e.f. 20.03.2014 for the following:-

"(ii) "Training institute" means a training institute set up by the Central or State Government or a local authority or a training institute affiliated to National Council for Vocational Training or State Council for Vocational Training."

3. Substituted by the Income-tax (2nd Amendment) Rules, 2014 vide Notification No. 16/2014 dated 20.03.2014 w.e.f. 20.03.2014.

**6AB. Form of audit report for claiming deductions under sections 35D and 35E :-**

The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (4) of sections 35D or sub-section (6) of section 35E shall be in <sup>1</sup>[Form No. 3AE]

1. Substituted by Income-tax (11th Amendment) Rules, 2006 for the words " Form No. 3B"

**6ABA. Computation of aggregate average advances for the purposes of clause (viiia) of sub-section (1) of section 36 :-**

For the purposes of clause (viiia) of sub-section (1) of section 36, the aggregate average advances made by the rural branches of a scheduled bank shall be computed in the following manner, namely :--

(a) the amounts of advances made by each rural branch as outstanding at the end of the last day of each month comprised in the previous year shall be aggregated separately ;

(b) the sum so arrived at in the case of each such branch shall be divided by the number of months for which the outstanding advances have been taken into account for the purposes of clause (a) ;

(c) the aggregate of the sums so arrived at in respect of each of the rural branches shall be the aggregate average advances made by the rural branches of the scheduled bank.

Explanation : In this rule, "rural branch" and "scheduled bank" shall have the meanings assigned to them in the Explanation to clause (vita) of sub-section (1) of section 36.

**6ABAA. XXX XXX XXX :-**

<sup>1</sup>[6ABAA.

The conditions to be fulfilled by a public facility to be eligible to be notified as an infrastructure facility in accordance with the provisions of clause (d) of the Explanation to clause (viii) of sub-section (1) of section 36 shall be the following, namely:

(a) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act;

(b) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining a new infrastructure facility similar in nature to an infrastructure facility referred to in the Explanation to clause (i) of sub-section (4) of section 80-IA;

(c) it has started or starts operating and maintaining such infrastructure facility on or after the 1st of April, 1995.]

1. Inserted by Income-tax (Sixth Amendment) Rules, 2006 vide Notification no. SO1152(E) dated 20.07.2006.

**6ABB. Form of report for claiming deduction under clause (xi) of sub-section (1) of section 36 :-**

6ABB.- <sup>1</sup>[Form of report for claiming deduction under clause (xi) of sub-section (1) of section 36.--

The report of an accountant, which is required to be furnished under clause (xi) of sub-section (1) of section 36 shall be in Form No. 3BA.]

1. Inserted by the IT (Twentieth Amendment) Rules, 1999, w.e.f. 1-4-2000.

**6AC. Omitted :-**

[Omitted by the IT (Thirty-Second Amdt.) Rules, 1999, w.e.f 19-11-1999]

**6B. Omitted :-**

[Omitted by the IT (Thirty-Second Amdt.) Rules, 1999, w.e.f 19-11-1999]

**6C. Omitted :-**

[Omitted by the IT (Amdt.) Rules, 1973, W.E.R 1-4- 1973]

**6D. Omitted :-**

[Omitted by the IT (Thirty-Second Amdt.) Rules, 1999, w.e.f 19-11-1999]

**6DD. Cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft. :-**

6[6DD.-Cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

6DD. No disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business under sub-section (3A) of section 40A 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 the case and circumstances specified hereunder, namely:-

(a) where the payment is made to-

(i) the Reserve Bank of India or any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iii) any co-operative bank or land mortgage bank;

(iv) any primary agricultural credit society or any primary credit society as defined under section 56 of the Banking Regulation Act, 1949 (10 of 1949);

(v) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(b) where the payment made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) where the payment is made by-

(i) any letter of credit arrangements through a bank;

(ii) a mail or telegraphic transfer through a bank;

(iii) a book adjustment from any account in a bank to any other account in that or any other bank;

(iv) a bill of exchange made payable only to a bank; (v) the use of electronic clearing system through a bank account;

(vi) a credit card;

(vii) a debit card.

Explanation -For the purposes of this clause and clause (g), the term "bank" means any bank, banking company or society referred to in sub-clauses (i) to (iv) of clause (a) and includes any bank [not being a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)]. whether

incorporated or not, which is established outside India;

(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

(e) where the payment is made for the purchase of-

(i) agricultural or forest produce; or -

(ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or

(iii) fish or fish products; or

(iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;

(f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with his retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heirs does not exceed fifty thousand rupees;

(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 Act, and when such employee-

(ii) 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

(ii) 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 purposes of this clause, the expressions

"authorised dealer" or "money changer" means a person authorised as an authorised dealer or a money changer to deal in foreign currency or foreign exchange under any law for the time being in force.]

1 Substituted for "ten thousand" by the IT (Thirty-first Amdt.) Rules, 1999, w.e.f. 1-4-1997. Earlier "ten thousand" was substituted for "two thousand five hundred" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

2. Clauses (j), (k) and (l) inserted by the IT (Twenty-First Amdt.) Rules, 1995, w.e.f. 1-12-1995.

3. Inserted by the IT (Sixteenth Amdt.) Rules, 2000, w.e.f. 25-7-1995

4. Substituted by IT (13th Amendment) Rules, 2006 for the words "an account payee cheque drawn on a bank or account payee bank draft"

5. Substituted by The Income-tax (8th Amendment) Rules, 2007, dated 27.06.2007 w.e.f. the assessment year 2008-09 for the following:

"6DD.- Cases and circumstances in which payment in a sum exceeding twenty thousand rupees may be made otherwise than by <sup>4</sup>[an account payee cheque drawn on a bank or account payee bank draft]

No disallowance under sub-section (3) of section 40A shall be made where any payment in a sum exceeding <sup>1</sup>[twenty thousand] rupees is made otherwise than by <sup>4</sup>[an account payee cheque drawn on a bank or account payee bank draft] in the cases and circumstances specified hereunder, namely :--

(a) where the payment is made to--

(i) the Reserve Bank of India or any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iii) any co-operative bank or land mortgage bank ;

(iv) any primary agricultural credit society as defined in clause (cii) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934), or any primary credit society as defined in clause (civ) of that section ;

(v) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(vi) the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948);

(vii) the Industrial Credit and Investment Corporation of India Ltd.;

- (viii) the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964);
- (ix) the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963);
- (x) the Madras Industrial Investment Corporation Ltd., Madras;
- (xi) the Andhra Pradesh Industrial Development Corporation Ltd., Hyderabad;
- (xii) the Kerala State Industrial Development Corporation Ltd., Trivandrum;
- (xiii) the State Industrial and Investment Corporation of Maharashtra Ltd., Bombay ;
- (xiv) the Punjab State Industrial Development Corporation Ltd., Chandigarh;
- (xv) the National Industrial Development Corporation Ltd., New Delhi;
- (xvi) the Mysore State Industrial Investment and Development Corporation Ltd., Bangalore;
- (xvii) the Haryana State Industrial Development Corporation Ltd., Chandigarh;
- (xviii) any State Financial Corporation established under section 3 of the State Financial Corporations Act, 1951 (63 of 1951);
- (a) where the payment is made to Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (b) where under any contract entered into by the assessee before the 1st day of April, 1969, the payment is required to be made in legal tender ;
- (c) where the payment is made by--(i) any letter of credit arrangements through a bank ; (ii) a mail or telegraphic transfer through a bank; (iii) a book adjustment from any account in a bank to any other account in that or any other bank; (iv) a bill of exchange made payable only to a bank.
- Explanation : For the purposes of this clause and clause (h), the term "bank" means any bank, banking company or society referred to in sub-clauses (i) to (iv) of clause (a) and includes any bank [not being a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)], whether incorporated or not, which is established outside India;
- (d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee ;
- (e) where the payment is made for the purchase of--(i) agricultural or forest produce ; or (ii) the produce of animal husbandry (including hides and skins) or dairy or poultry farming ; or (iii) fish or fish products ; or (iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;
- (f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage



industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment by way of gratuity, retrenchment compensation or similar terminal benefit, is made to an employee of the assessee or the heirs of any such employee on or in connection with the retrenchment, resignation, discharge or death of such employee, if the income chargeable under the head "Salaries" of the employee in respect of the financial year in which such retirement, resignation, discharge or death took place or the immediately preceding financial year did not exceed Rs. 7,500;

<sup>2</sup>[(j) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee--

(A). is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and

(B). does not maintain any account in any bank at such place or ship;

(k) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(l) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;]

<sup>3</sup>[(m) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

Explanation : For the purpose of this clause, the expression "authorised dealer" or "money changer" means a person authorised as an authorised dealer or money changer to deal in foreign currency or foreign exchange under any law for the time being in force."

6. Substituted by the Income -tax (7th Amendment) Rules, 2008 vide Notification No. 97/2008 dated 10.10.2008 for the following :-

<sup>5</sup>[Cases and circumstances in which payment in a sum exceeding twenty thousand rupees may be made otherwise than by an account payee cheque drawn on a bank or account payee bank draft. 6DD. No disallowance under clause (a) of sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under clause (b) of sub-section (3) of section 40A where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft in the cases and circumstances specified hereunder, namely:

(a) where the payment is made to

(i) the Reserve Bank of India or any banking company as defined in

clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iii) any co-operative bank or land mortgage bank;

(iv) any primary agricultural credit society or any primary credit society as defined under section 56 of the Banking Regulation Act, 1949 (10 of 1949);

(v) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) where the payment is made by

(i) any letter of credit arrangements through a bank;

(ii) a mail or telegraphic transfer through a bank;

(iii) a book adjustment from any account in a bank to any other account in that or any other bank;

(iv) a bill of exchange made payable only to a bank;

(v) the use of electronic clearing system through a bank account;

(vi) a credit card;

(vii) a debit card.

Explanation.- For the purposes of this clause and clause (g), the term "bank" means any bank, banking company or society referred to in sub-clauses (i) to (iv) of clause (a) and includes any bank [not being a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)], whether incorporated or not, which is established outside India;

(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

(e) where the payment is made for the purchase of

(i) agricultural or forest produce; or

(ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or

(iii) fish or fish products; or

(iv) the products of horticulture or apiculture,

to the cultivator, grower or producer of such articles, produce or products;

(f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such

employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;

(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 Act, and when such employee -

(i) 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

(ii) 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 purposes of this clause, the expressions "authorised dealer" or "money changer" means a person authorised as an authorised dealer or a money changer to deal in foreign currency or foreign exchange under any law for the time being in force.]"

**6DDA. Conditions that a sk exchange is required to fulfil to be notified as a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43. :-**

<sup>1</sup>[6DDA. Conditions that a sk exchange is required to fulfil to be notified as a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43.

For the purposes of clause (d) of proviso to clause (5) of Section 43, a sk exchange shall fulfil the following conditions in respect of trading in derivatives, namely:--

(i) the sk exchange shall have the approval of the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992) in respect of trading in derivatives and shall function in accordance with the guidelines or conditions laid down by the Securities and Exchange Board of India;

(ii) the sk exchange shall ensure that the particulars of the client (including unique client identity number and PAN) are duly recorded and stored in its databases;

(iii) the sk exchange shall maintain a complete audit trail of all

transactions (in respect of cash and derivative market) for a period of seven years on its system;

<sup>2</sup>[(iv) the sk exchange shall ensure that transactions (in respect of cash and derivative market) once registered in the system are not erased:]

<sup>3</sup>[(v) the sk exchange shall ensure that the transactions (in respect of cash and derivative market) once registered in the system are modified only in cases of genuine error and maintain data regarding all transactions (in respect of cash and derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence), New Delhi within fifteen days from the last day of each month to which such statement relates.]

1. Inserted by Income-tax (20th Amendment) Rules, 2005 vide Notification No. 181/2005 dated 01.07.2005.

2. Substituted by the Income-tax (First Amendment) Rules, 2011 vide Notification No. 14/2011 dated 09.03.2011 w.e.f. 01.04.2011 for the following : -

"(iv) the sk exchange shall ensure that transactions once registered in the system cannot be erased or modified.]"

3. Inserted by the Income-tax (First Amendment) Rules, 2011 vide Notification No. 14/2011 dated 09.03.2011 w.e.f. 01.04.2011.

**6DDB. Notification of a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43**

:-

<sup>1</sup>[6DDB. Notification of a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43.

(1) An application for notification of a sk exchange as a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43 may be made to the Member(L), Central Board of Direct Taxes, North Block, New Delhi-110 001.

(2) The application referred to in sub-rule (1) shall be accompanied with the following documents, namely:--

(i) approval granted by Securities and Exchange Board of India for trading in derivatives;

(ii) up-to-date rules, bye-laws and trading regulations of the sk exchange;

(iii) confirmation regarding fulfilling the conditions referred to in clause (ii) to <sup>2</sup>[clause (v)] of rule 6DDA; (iv) such other information

as the sk exchange may like to place before the Central Government.

(3) The Central Government may call for such other information from the applicant as it deems necessary for taking a decision on the application.

(4) The Central Government, after examining the information furnished by the sk exchange under sub-rule (2) or sub-rule (3), shall notify the sk exchange as a recognised sk exchange for the purposes of clause (d) of proviso to clause (5) of Section 43 or issue an order rejecting the application before the expiry of four months from the end of the month in which the application is received.

(5) The notification referred to in sub-rule (4) shall be effective until the approval granted by the Securities and Exchange Board of India is withdrawn or expired, or the notification is rescinded by the Central Government.]

1. Inserted by Income-tax (20th Amendment) Rules, 2005 vide Notification No. 181/2005 dated 01.07.2005.

2. Substituted by the Income-tax (First Amendment) Rules, 2011 vide Notification No. 14/2011 dated 09.03.2011 for the following :-  
" clause (iv)"

**6DDC. Conditions that a recognised association is required to fulfil to be notified as a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43 :-**

<sup>1</sup>[6DDC. Conditions that a recognised association is required to fulfil to be notified as a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43.--

For the purposes of clause (e) of the proviso to clause (5) of section 43, a recognised association shall fulfil the following conditions in respect of trading in derivatives, namely:--

(i) the recognised association shall have the approval of the Forward Markets Commission established under the Forward Contracts (Regulation) Act, 1952 (74 of 1952) in respect of trading in derivatives and shall function in accordance with the guidelines or conditions laid down by the Forward Markets Commission;

(ii) the recognised association shall ensure that the particulars of the client (including unique client identity number and PAN) are duly recorded and stored in its databases;

(iii) the recognised association shall maintain a complete audit trail of all transactions (in respect of derivative market) for a period of seven years on its system;

(iv) the recognised association shall ensure that transactions (in respect of derivative market) once registered in the system are not erased;

(v) the recognised association shall ensure that the transactions (in respect of derivative market) once registered in the system are modified only in cases of genuine error and maintain data regarding all transactions (in respect of derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BC to the Director General of Income-tax (Intelligence and Criminal Investigation), New Delhi within fifteen days from the last day of each month to which such statement relates.]

1. Inserted by the Income-tax (9th Amendment) Rules, 2013 vide Notification No. 51/2013 dated 04.07.2013.

**6DDD. Notification of a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43 :-**

<sup>1</sup>[6DDD. Notification of a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43.--

(1) An application for notification of a recognised association (as per clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952) as a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43 may be made to the Member (Legislation), Central Board of Direct Taxes, North Block, New Delhi.

(2) The application referred to in sub-rule (1) shall be accompanied with the following documents, namely:--

(i) approval granted by Forward Markets Commission for trading in derivatives;

(ii) up-to-date rules, bye-laws and trading regulations of the recognised association;

(iii) confirmation regarding fulfilling the conditions referred to in clause (ii) to clause (v) of rule 6DDC;

(iv) such other information as the recognised association may like to place before the Central Government.

(3) The Central Government may call for such other information from the applicant as it deems necessary for taking a decision on

the application.

(4) The Central Government, after examining the information furnished by the recognised association under sub-rule (2) or sub-rule (3), shall notify the recognised association as a recognised association for the purposes of clause (e) of the proviso to clause (5) of section 43 or issue an order rejecting the application before the expiry of four months from the end of the month in which the application is received.

(5) The notification referred to in sub-rule (4) shall be effective until the approval granted by the Forward Markets Commission is withdrawn or expired, or the notification is rescinded by the Central Government.]

1. Inserted by the Income-tax (9th Amendment) Rules, 2013 vide Notification No. 51/2013 dated 04.07.2013.

#### **6E. Limits of reserve for unexpired risks :-**

In the computation of profits and gains of any business of insurance other than life insurance, the amount carried over to a reserve for unexpired risks including any amount carried over to any such additional reserve which is to be allowed as a deduction under clause (c) of rule 5 of the First Schedule, shall not exceed-

<sup>2</sup>[(a) where the insurance business relates to fire insurance or engineering insurance and which provides insurance for terrorism risks, 100 per cent of the net premium income of such business of the previous year;

(aa) where the insurance business relates to fire insurance or miscellaneous insurance other than the insurance business covered under clause (a), 50 per cent of the net premium income of such business of the previous year;]

(b) where the insurance business relates to marine insurance, 100 per cent of the net premium income of such business of the previous year:

Provided that any amount out of the amount carried over to such reserve or additional reserve which is not allowed as a deduction under this rule in respect of any previous year shall not be included in the total income for the assessment year relevant to the immediately next succeeding previous year in the revenue account relating to which the amount aforesaid is credited.

<sup>1</sup>[Explanation.--For the purposes of this rule,--

- (a) net premium income" means the amount of premium received as reduced by the amount of reinsurance premium paid during the relevant previous year;
- (b) "marine insurance" includes the Export Credit Insurance.]

1 Substituted for the following by the IT (First Amendment) Rule, 1997, w.r.e.f. 9-8-1962: Explanation.-For the purposes of this rule, "net premium income" means the amount of premiums received as reduced by the amount of reinsurance premiums paid during the relevant previous year.

2.Substituted by the Income-tax (Seventh Amendment) Rules, 2002, w.e.f. 01.04.2003. Prior to substitution clause (a) read as under :

"(a) where the insurance business relates to fire insurance or miscellaneous insurance, 50 percent of the net premium income of such business of the previous year;"

## **6EA. Special provision regarding Interest on bad and doubtful debts of financial Institutions, banks, etc :-**

**<sup>1</sup>6EA.-** Special provision regarding Interest on bad and doubtful debts of financial Institutions, banks, etc.--

The provisions of section 43D shall apply in the case of every public financial institution, scheduled bank, State financial corporation and State industrial investment corporation where its income by way of interest pertains to the following categories of bad and doubtful debts, namely:--

(a) (i) Non-viable or sticky advances, i.e., where irregularities of the nature specified in sub-clause (ii) are noticed in the accounts of the borrowers for a period of six months and more and there are no minimum prospects of regularisation of accounts, or where the accounts or information in relation to such accounts reflect usual signs of sickness, such as,--

- (1) apparent stagnation in the business as a result of the slow or negligible turnover;
- (2) frequent requests for overdrawing or issue of cheques without ensuring availability of funds in the account;
- (3) bills purchased or discounted remain overdue for 3 months and more or the recovery of such bills from the borrower poses difficulties;
- (4) in the case of term-loans, instalments which are overdue for 6 months or more;



- (5) unexplained delays by the borrower in submission of quarterly or half-yearly operating statements or sk statements or balance sheets and other information required by the bank;
  - (6) slow movement or stagnation of sks observed during inspections;
  - (7) low or negligible level of activity observed during inspections or suspension or closure of the business;
  - (8) persistent delay in compliance with vital requirements like execution of documents, producing additional security when required or non-compliance with such requirements;
  - (9) diversion of funds to sister units or acquiring capital assets not relevant to the business or large personal withdrawals by the borrowers;
  - (10) intentional non-adherence to project schedules leading to substantial cost escalations and requirement of additional term-finance; .
  - (11) the pressure on the liquidity leading to non-payment of wages to workers or statutory dues or rents of office and factory premises;
  - (12) the current liabilities exceeding current assets;
  - (13) any grave irregularities observed by the auditors of the borrowers which remain to be rectified;
  - (14) basic weakness revealed by the financial statements of the unit, for example, continued cash loss beyond one year.
- (ii) The irregularities referred to in sub-clause (i) in the accounts of the borrowers are,--
- (1) where the accounts are overdrawn beyond the drawing power or the sanctioned limit, for a temporary period;
  - (2) instalments in respect of term-loans are overdue for less than 6 months or import bills under letters of credit or instalments under deferred payment carried are overdue for less than 3 months;
  - (3) bills not exceeding 10% to 15% of the total outstandings in the bills purchased or discounted account of the borrower are overdue for payment for a period of less than 3 months and refund in respect of unpaid bills is not forthcoming immediately.
- (b) Advances recalled, i.e., where the repayment is highly doubtful and revival of the unit is not considered worthwhile and a decision has been taken to recall the advances.
- (c) Suit-filed accounts, i.e., where legal action or recovery proceedings have been initiated and suits are pending for recovery of advances.
- (d) Decreed debts, i.e., where suits have been filed and decree obtained and such decree is pending for execution.

(e) Debts recoverability whereof has become doubtful on account of shortfalls in value of security, difficulty in enforcing and realising the securities, or inability or unwillingness of the borrower to repay the banks dues - partly or wholly - and such debts have not been included in preceding clauses (a) to (d) .

1. Inserted by the It (Tenth Amdt.) Rules, 1992 w.r.e.f. 1-4-1992.

**6EB. Categories of bad or doubtful debts in the case of a public company under clause (b) of section 43D. :-**

6EB.- <sup>1</sup>[Categories of bad or doubtful debts in the case of a public company under clause (b) of section 43D.

The provisions of clause (b) of section 43D shall apply in the case of every public company where its income by way of interest pertains to the following categories of bad and doubtful debts, namely :--

(a) (i) doubtful asset, that is, a debt which has remained a non-performing asset of the nature specified in sub-clause for a period exceeding two years;

(ii) Non-performing asset referred to in sub-clause (i) shall be the following:--

(1) term loan beyond one year, if the interest amount remains past due for six months or instalment is overdue for more than six months;

(2) lease rental or hire purchase instalment, if the rental or the instalment is past due for six months;

(3) bill purchased or discounted, if the bill remains overdue and unpaid for six months; or

(4) any other credit facility in the nature of short term loan or advance [other than those referred to in (1), (2) and (3) above], if any amount to be received in respect of such a facility remains past due for a period of six months;

(b) loss asset, that is, a debt which has been identified as loss and considered as uncollectible but has not been written off in the accounts of the assessee.

Explanation.--For the purposes of this rule, an amount shall be deemed to be past due when it remains unpaid for thirty days beyond the due date.]

1. Inserted by the It (Thirtieth Amendment) Rules, 199, w.e.f. 6-10-1999.

**6F. Books of account and other documents to be kept and maintained under section 44AA(3) by persons carrying on certain professions. :-**

(1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist shall keep and maintain the books of account and other documents specified in sub-rule (2) :

<sup>1</sup>[Provided that nothing in this sub-rule shall apply in relation to any previous year in the case of any person if his total gross receipts in the profession do not exceed one lakh fifty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount.]

(2) The books of account and other documents referred to in sub-rule (1) shall be the following, namely:--

(i) a cash book;

(ii) a journal, if the accounts are maintained according to the mercantile system of accounting;

(iii) a ledger;

(iv) carbon copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the person, and carbon copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by him:

Provided that nothing in this clause shall apply in relation to sums not exceeding twenty-five rupees;

(v) 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 fifty rupees, payment vouchers prepared and signed by the person:

Provided that the requirements as to the preparation and signing of payment vouchers shall not apply in a case where the cash book maintained by the person contains adequate particulars in respect of the expenditure incurred by him.

Explanation: In this rule,--

(a)) "authorised representative" means a person who represents any other person, on payment of any fee or remuneration before any Tribunal or authority constituted or appointed by or under any law for the time being in force, but does not include an employee of the person so represented or a person carrying on legal profession or a person carrying on the profession of accountancy;

(b) "cash book" means 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;

(c) "film artist" means any person engaged in his professional capacity in the production of a cinematograph film whether produced by him or by any other person, as-

(i) an actor;

(ii) a cameraman;

(iii) a director, including an assistant director;

(iv) a music director, including an assistant music director;

(v) an art director, including an assistant art director;

(vi) a dance director, including an assistant dance director;

(vii) an editor;

(viii) a singer;

(ix) a lyricist;

(x) a story writer;

(xi) a screen-play writer;

(xii) a dialogue writer; and

(xiii) a dress designer.

(3) A person carrying on medical profession shall, in addition to the books of account and other documents specified in sub-rule (2) , keep and maintain the following, namely:--

(i) a daily case register in Form No.3C;

(ii)) an inventory under broad heads, as on the first and the last day of the previous year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession.

(4) The books of account and other documents specified in sub-rule (2) and sub-rule (3) other than those relating to a previous year which has come to an end shall be kept and maintained by the person at the place where he is carrying on the profession or, where the profession is carried on in more places than one, at the principal place of his profession:

Provided that where the person keeps and maintains separate books of account in respect of each place where the profession is

carried on, such books of account and other documents may be kept and maintained at the respective places at which the profession is carried on.

(5) The books of account and other documents specified in sub-rule (2) and sub-rule (3) shall be kept and maintained for a period of <sup>2</sup>[six years] from the end of the relevant assessment year:

<sup>3</sup>[\*\*\*]

<sup>4</sup>[Provided] that where the assessment in relation to any assessment year has been reopened under section 147 of the Act within the period specified in section 149 of the Act, all the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment so reopened has been completed.

(6) Notwithstanding anything contained in sub-rules (1) to (3) , it shall not be necessary for any person carrying on any of the professions specified in sub-rule (1) to keep and maintain the books of account and other documents specified in sub-rule (2) or sub-rule (3) in relation to any previous year commencing before the first day of March, 1983.

1 Substituted by the IT (First Amdt.))Rules, 2000, w.e.f. 6-4-2000. Prior to its substitution.proviso, as inserted by the It (Fifth Amdt.)) Rules, 1983, w.e.f. 28-2-1983, read as under: "provided the nothing in this sub-rule shall apply in relation to any previous year-

(a) in the case of any person other than a person referred to in clause (b) , if his total gross receipts in the profession do not exceed sixty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount:

(b) in case of a person who, in the course of his medical profession, dispenses drugs and medicines, his total gross receipts in the profession do not exceed eighty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession (including the dispensing of drugs and medicines) has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount."

2. Substituted for "eight years" by the I.T. (First Amendment) Rules, 2002 w.e.f 04.02.2002.

3. Omitted by the I.T. (First Amendment) Rules, 2002 w.e.f 04.02.2002. Prior to omission the proviso read as under:

"Provided that in relation to the books of account referred to in clause (i) and clause (iii) of sub-rule (2) , the provisions of this sub-rule shall apply as if for the words "eight years", the words "sixteen years" had been substituted;"

4. Substituted for the words " Provided further" by the I.T. (First Amendment) Rules, 2002 w.e.f 04.02.2002.

**6G. Report of audit of accounts to be furnished under section 44AB :-**

6G. <sup>1</sup>Report of audit of accounts to be furnished under section 44AB.

(1) The report of audit of the accounts of a person required to be furnished under, section 44AB shall,--

(a) in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

(b) in the case of a person who carries on business or profession, but not being a person referred to in clause (a), be in Form No. 3CB.

(2) The particulars which are required to be furnished under section 44AB shall be in Form No. 3CD.

1. Substituted by the IT (Fourteenth Amdt.) Rules, 1999, w.e.f. 4-6-1999. Prior to its substitution, rule 6F, as inserted by the IT (Amdt.) Rules, 1985, w.e.f. 1-4-1985 and later on amended by the IT (Sixth Amdt.) Rules, 1985, w.e.f. 1-4-1985, read as under:

"6G. Report of audit of accounts to be furnished under section 44AB.-(1) The report of audit of the accounts of a person required to be furnished under section 44AB shall,-

(a) in the case of a person who carries on business and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

(b) in the case of a person who carries on business, but not being a person referred to in clause (a), be in Form No. 3CB;

(c) in the case of person who carries on profession, be in Form No. 3CE.

(2) The particulars which are required to be furnished under section 44AB shall,-

(a) in the case of a person carrying on business, be in Form NO. 3CD;

(b) in the case of a person carrying on profession, be in Form No.

3CE."

**6GA. Form of report of audit to be furnished under sub-section (2) of section 44DA :-**

<sup>1</sup>[6GA. Form of report of audit to be furnished under sub-section (2) of section 44DA.

The report of audit of accounts of the non-resident (not being a company) or a foreign company, which is required to be furnished under sub-section (2) of section 44DA shall be in Form No. 3CE.]

1. Inserted vide the Income-tax (Twenty-Seventh Amendment) Rules, 2003 w.e.f. 20.11.2003

**6H. Form of report of an accountant under sub-section (3) of section 50B :-**

<sup>1</sup>The report of an accountant which is required to be furnished by every assessee along with the return of income, in case of slump sale, under sub-section (3) of section 50B. shall be in Form No. 3CEA.]

1 Heading "CCCC", consisting of rule 6H, inserted by the IT (Twenty-first Amdt.) Rules, 1999, w.e.f. 25-6-1999.

**7. Income which Is partially agricultural and partially from business :-**

(1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head Profits and gains of business", in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as a raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind.

(2) For the purposes of sub-rule (1) "market value" shall be

deemed to be:--

(a) where agricultural produce is ordinarily sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the relevant previous year;

(b) where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of-

(i) the expenses of cultivation;

(ii) the land revenue or rent paid for the area in which it was grown; and

(iii) such amount as the Assessing Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit.

### **7A. Income from the manufacture of rubber :-**

7A. <sup>1</sup>[Income from the manufacture of rubber.--

<sup>2</sup>[(1) Income derived from the sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India shall be computed as if it were income derived from business, and thirty-five per cent of such income shall be deemed to be income liable to tax.]

(2) In computing such income, an allowance shall be made in respect of the cost of planting rubber plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (31) of section 10, is not includible in the total income.]

1 Inserted by the It (second Amdt.) Rule, 2001, w.e.f. 1-4-2002.

2. Substituted by the I.T. (Third Amdt.) Rules 2002 w.e.f. 01-04-2003. Prior to its substitution the Rule read as under :

"(1) Income derived from the sale of centrifuged latex or cenex manufactured from rubber plants grown by the seller in India shall



be computed as if it were income derived from business, and thirty-five per cent of such income shall be deemed to be income liable to tax."

### **7B. Income from the manufacture of coffee :-**

7B. <sup>1</sup>[Income from the manufacture of coffee.--

<sup>2</sup>[(1) Income derived from the sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and twenty-five per cent of such income shall be deemed to be income liable to tax.

(1A) Income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other flavouring ingredients, shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable; to tax.

Explanation: For the purposes of sub-rules (1) and (1A) "curing" shall have the same meaning as assigned to it in sub-section (d) of section 3 of the Coffee Act, 1942 (7 of 1942).]

(2) <sup>3</sup>[In computing the incomes referred to in sub-rules (1) and (1A)], an allowance shall be made in respect of the cost of planting coffee plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (31) of section 10, is not includible in the total income]

1. Inserted by the IT (Second Amdt.) Rules, 2001, w.e.f. 1-4-2002.

2. Substituted by IT (Eleventh Amdt.) Rules, 2002 w.e.f. 01.04.2002. Prior to substitution clause (1) read as under :

"(1) Income derived from the sale of coffee grown and manufactured by the seller in India, with or without mixing of chicory or other flavouring ingredients, shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax."

3. Substituted for "In computing such income" by IT (Eleventh Amdt.) Rules, 2002 w.e.f. 01.04.2002.

### **8. Income from the manufacture of tea :-**

(1) Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived

from business, and forty per cent of such income shall be deemed to be income liable to tax.

(2) In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (30) of section 10, is not includible in the total income.

**8A. Conditions for the grant of development allowance :-**

The other conditions referred to in clause (iii) of sub-section (3) of section 33A shall be the following, namely:--

(a) the assessee shall, at least three months before commencing the operations for planting or, as the case may be, replanting tea bushes, give notice of his intention to do so to the Tea Board in writing in Form No. 4:

Provided that in a case where such operations have commenced before the 1st day of January, 1968, this condition shall be deemed to have been fulfilled if notice of such commencement is given by the assessee before the 1st day of February, 1968;

(b) the assessee shall afford the Tea Board or such other person or agency as may be authorised in writing by the Tea Board in this behalf, every reasonable facility to enter upon and inspect the area under planting or, as the case may be, replanting;

(c) the assessee shall furnish to the Tea Board such particulars, documents or statements, in relation to the planting or replanting of tea, as the Tea Board may require him to furnish;

(d) the assessee shall furnish to the Assessing Officer, along with his return of income for the previous year for which the deduction is claimed, a certificate from the Tea Board in Form No. 5 and a statement of particulars in Form No. 5A.

Explanation: For the purposes of this rule, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).

**8B. Guidelines for notification of zero coupon bond :-**

<sup>1</sup>[8B. (1) Guidelines for notification of zero coupon bond.

An application by an infrastructure capital company or infrastructure capital fund or a public sector company for notification under clause (48) of section 2 of any zero coupon bond

proposed to be issued by it shall be made in Form No. 5B at least three months before the date of issue of such bond:

Provided that an application shall not be made for notification of a bond to be issued after two financial years following the financial year in which the application is made.

(2) Every application, under sub-rule (1), shall be accompanied by the following documents, namely:

(i) where the application is made by any infrastructural capital company or a public sector company, being a government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956);

(ii) where the application is made by any infrastructure capital fund, a copy of the trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908);

(iii) where the application is made by a public sector company, being any corporation, established by or under any Central or State or Provincial Act, a copy of the relevant Act;

(3) The Central Government, while specifying a zero coupon bond by notification in the Official Gazette shall satisfy itself that the following conditions are fulfilled, namely:

(i) the period of life of the bond is not less than ten years and not more than twenty years;

(ii) the infrastructure capital company or infrastructure capital fund or public sector company proposing to issue a zero coupon bond has an investment grade rating from at least two credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) necessary arrangement has been made by the infrastructure capital company or infrastructure capital fund or public sector company for listing the zero coupon bond in a recognised stock exchange in India;

(iv) where the application is made by the infrastructural capital company or infrastructure capital fund, such company or fund shall furnish along with the application an undertaking that the money realised on issue of the zero coupon bond shall be invested by it in the following manner, namely:

(i) twenty-five per cent, or more of such realisation before the end of the financial year immediately following the financial year in which the bond is issued;

(ii) the balance of such realization within a period of four financial years immediately following the financial year in which the bond is

issued;

(v) where the application is made by a public sector company, such company shall furnish along with the application an undertaking that the money realised on issue of the zero coupon bond shall be invested or utilised by it in the following manner, namely:

(i) fifteen per cent, or more of such realisation before the end of the financial year immediately following the financial year in which the bond is issued;

(ii) the balance of such realisation within a period of six financial years immediately following the financial year in which the bond is issued;

(4) The Central Government, after having satisfied itself about fulfilling of the conditions referred to in sub-rule (1), sub-rule (2), and sub-rule (3) shall specify the bond, by notification in the Official Gazette, giving therein, inter alia, the following particulars, namely:

(a) name of the bond;

(b) period of life of the bond;

(c) the time schedule of the issue of the bond;

(d) the amount to be paid on maturity or redemption of the bond;

(e) the discount;

(f) the number of bonds to be issued;

(5) The Central Government may, if the applicant fails to fulfil the conditions referred to in sub-rule (1) or sub-rule (2) or sub-rule (3), reject the application for notification after giving an opportunity of being heard to the infrastructure capital company or infrastructure capital fund or public sector company, as the case may be.

(6) Every infrastructure capital company or infrastructure capital fund or public sector company shall submit within two months from the end of each financial year referred to in sub-clause (i) or sub-clause (ii) of clause (iv) of sub-rule (3), or as the case may be, in sub-clause (i) or sub-clause (ii) of clause (v) of sub-rule (3), a certificate from an accountant as defined in the Explanation to sub-section (2) of section 288, specifying the amount invested in each year.

(7) The Central Government shall have the power to withdraw the notification if the applicant fails to fulfil any of the conditions referred to in sub-rule (3) or sub-rule (6).

Explanation. - For the purpose of this rule, the expressions discount and period of life of the bond shall have the same meanings respectively assigned to them in clause (i) and clause (ii) of the

Explanation to clause (iiia) of sub-section (1) of section 36  
Computation of pro rata amount of discount on a zero coupon bond for the purpose of clause (iiia) of sub-section (1) of section 36.

1. Inserted by Income-tax (3rd Amendment) Rules, 2006 vide Notification No. 93/2006 dt. 30.03.2006.

**8C. For the purposes of clause (iiia) of sub-section (1) of section 36 :-**

the pro rata amount of discount on a zero coupon bond shall be computed in the following manner, namely:

(a) the period of the life of the bond shall be converted into number of calendar months and, for this purpose, where the calendar month in which the bond is issued or the bond matures or is redeemed contains a part of a calendar month then, if such part is fifteen days or more than fifteen days, it shall be increased to one calendar month and if such part is less than fifteen days it shall be ignored;

(b) the amount of discount shall be divided by the number of calendar months determined in accordance with clause (a);

(c) where one or more than one calendar month out of calendar months determined in accordance with clause (a) is or are included in a previous year, the amount determined in accordance with clause (b) shall be multiplied by the number of calendar months so included and the amount so arrived at shall be taken to be the pro rata amount of discount for that previous year.]

**8D. Method for determining amount of expenditure in relation to income not includible in total income :-**

<sup>1</sup>[8D. Method for determining amount of expenditure in relation to income not includible in total income -

(1) Where the Assessing Officer, having regard to the accounts of the assessee of a previous year, is not satisfied with-

(a) the correctness of the claim of expenditure made by the assessee; or

(b) the claim made by the assessee that no expenditure has been incurred, in relation to income which does not form part of the total income under the Act for such previous year, he shall determine the amount of expenditure in relation to such income in accordance with the provisions of sub-rule (2).

(2) The expenditure in relation to income which does not form part

of the total income shall be the aggregate of following amounts, namely:-

(i) the amount of expenditure directly relating to income which does not form part of total income;

(ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the following formula, namely:-

$$A \times B = C$$

Where A = amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year;

B = the average of value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

C = the average of total assets as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

(iii) an amount equal to one-half per cent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year.]

Explanation: For the purposes of this rule, the total assets shall mean, total assets as appearing in the balance sheet excluding the increase on account of revaluation of assets but including the decrease on account of revaluation of assets.

Back

1. Inserted by the Income-tax (Fifth Amendment) Rules, 2008 vide Notification No. 45/2008 dated 24.03.2008.

## **9. Royalties or copyright fees, etc., for literary or artistic work :-**

(1) Where a claim for an allocation is or has been made under section 12AA of the Indian Income-tax Act, 1922 (11 of 1922), in respect of the amount referred to in that section, it shall be dealt with in the following manner, namely:--

(i) where the time taken by the author of the literary or artistic work in the making thereof is more than twelve but less than twenty-four months, one-half of the amount referred to in the said

section shall be included in the total income of the previous year in which the whole amount is received or receivable, and the other half in the total income of the next succeeding previous year; and (ii) where the time so taken is twenty-four months or more, one-third of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable and one-third of the said amount in the total income of each of the two next succeeding previous years.

(2) Where a claim for an allocation is made by an assessee under section 180 for the assessment year 1962-63 or any subsequent assessment year, it shall be dealt with in the following manner, namely:--

(i) the tax for the assessment year relevant to the previous year in which the whole amount is received or receivable shall be--

(a) the amount of tax payable on the total income as reduced by two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid had the total income so reduced been his total income; plus

(b) the tax on an amount equal to two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid at the rate applicable to a total income of an amount equal to one-third of such inclusion; and

(ii) one-third of the amount referred to in section 180 included in the total income of the previous year aforesaid shall be included in the total income of each of the two next succeeding previous years and the tax payable, if any, in respect of each of the assessments relevant to the two said succeeding previous years shall be reduced by an amount equal to one-half of the tax referred to in sub-clause (b) of clause (i).

### **9A. Deduction in respect of expenditure on production of feature films :-**

(1) In computing the profits and gains of the business of production of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film producer), the deduction in respect of the cost of production of a feature film certified for release by the Board of Film Censors in a previous year shall be allowed in accordance with the provisions of sub-rule (2) to sub-rule (4),

Explanation : In this rule,--

(i) "Board of Film Censors" means the Board of Film Censors

constituted under the Cinematograph Act, 1952 (37 of 1952);

(ii) "cost of production", in relation to a feature film, means the expenditure incurred on the production of the film, not being-

(a) the expenditure incurred for the preparation of the positive prints of the film; and

(b) the expenditure incurred in connection with the advertisement of the film after it is certified for release by the Board of Film Censors:

Provided that the cost of production of a feature film, shall be reduced by the subsidy received by the film producer under any scheme framed by the Government, where such amount of subsidy has not been included in computing the total income of the assessee for any assessment year.

(2) Where a feature film is certified for release by the Board of Film Censors in any previous year and in such previous year,--

(a) the film producer sells all rights of exhibition of the film, the entire cost of production of the film shall be allowed as a deduction in computing the profits and gains of such previous year; or

(b) the film producer--

(i) himself exhibits the film on a commercial basis in all or some of the areas; or

(ii) sells the rights of exhibition of the film in respect of some of the areas; or

(iii) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas, and the film is released for exhibition on a commercial basis at least <sup>1</sup>ninety days before the end of such previous year, the entire cost of production of the film shall be allowed as a deduction in computing the profits and gains of such previous year.

(3) Where a feature film is certified for release by the Board of Film Censors in any previous year and in such previous year, the film producer--

(a) himself exhibits the film on a commercial basis in all or some of the areas; or

(b) sells the rights of exhibition of the film in respect of some of the areas; or

(c) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is not released for exhibition on a commercial basis at least <sup>2</sup> [ninety] days before the end of such previous year, the cost



of production of the film in so far as it does not exceed the amount realised by the film producer by exhibiting the film on a commercial basis or the amount for which the rights of exhibition are sold or, as the case may be, the aggregate of the amounts realised by the film producer by exhibiting the film and by the sale of the rights of exhibition, shall be allowed as a deduction in computing the profits and gains of such previous year; and the balance, if any, shall be carried forward to the next following previous year and allowed as a deduction in that year.

(4) Where, during the previous year in which a feature film is certified for release by the Board of Film Censors, the film producer does not himself exhibit the film on a commercial basis or does not sell the rights of exhibition of the film, no deduction shall be allowed in respect of the cost of production of the film in computing the profits and gains of such previous year; and the entire cost of production of the film shall be carried forward to the next following previous year and allowed as a deduction in that year.

(5) Notwithstanding anything contained in the foregoing provisions of this rule, the deduction under this rule shall not be allowed unless,--

(a) in a case where the film producer--

(i) has himself exhibited the feature film on a commercial basis; or

(ii) has sold the rights of exhibition of the feature film; or

(iii) has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas, the amount realised by exhibiting the film, or the amount for which the rights of exhibition have been sold or, as the case may be, the aggregate of such amounts, is credited in the books of account maintained by him in respect of the year in which the deduction is admissible;

(b) in a case where the film producer has transferred the rights of exhibition of the feature film on a minimum guarantee basis, the minimum amount guaranteed and the amount, if any, received or due in excess of the guaranteed amount or where the film producer follows cash system of accounting, the amount received towards the minimum guarantee and the amount, if any, received in excess of the guaranteed amount, are credited in the books of account maintained by him in respect of the year in which the deduction is admissible.

(6) Where the Assessing Officer is of opinion that--

(a) the rights of exhibition of the feature film have been transferred by the film producer by a mode not covered by the provisions of

this rule; or

(b) having regard to the facts and circumstances of any case, it is not practicable to apply the provisions of this rule to such case, deduction in respect of the cost of production of the film may be allowed by the Assessing Officer in such other manner as he may deem suitable.

(7) For the purposes of this rule,--

(i) the sale of the rights of exhibition of a feature film includes the lease of such rights or their transfer on a minimum guarantee basis;

(ii) the rights of exhibition of a feature film shall be deemed to have been sold only on the date when the positive prints of the film are delivered by the film producer to the purchaser of such rights or where in terms of the agreement between the film producer and the film distributor as defined in rule 9B, the positive prints are to be made by the film distributor, the date on which the negative of the film is delivered by the film producer to the film distributor.

(8) Nothing contained in this rule shall apply in relation to any assessment year commencing before the 1st day of April, 1987.

1. Substituted for "one hundred and eighty" by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999.

2. Substituted for "one hundred and eighty" by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999. Earlier "one hundred and eighty" was substituted for "ninety" by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

### **9B. Deduction in respect of expenditure on acquisition of distribution rights of feature films :-**

(1) In computing the profits and gains of the business of distribution of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film distributor), the deduction in respect of the cost of acquisition of a feature film shall be allowed in accordance with sub-rule (2) to sub-rule (4).

Explanation : For the purposes of this rule, "cost of acquisition", in relation to a feature film, means the amount paid by the film distributor to the film producer or to another distributor under an agreement entered into by the film distributor with such film producer or such other distributor, as the case may be for acquiring

the rights of exhibition and, where the rights of exhibition have been acquired on a minimum guarantee basis, the minimum amount guaranteed, not being--

(i) the amount of expenditure incurred by the film distributor for the preparation of the positive prints of the film; and

(ii) the expenditure incurred by him in connection with the advertisement of the film.

(2) Where a feature film is acquired by the film distributor in any previous year and in such previous year--

(a) the film distributor sells all rights of exhibition of the film, the entire cost of acquisition of the film shall be allowed as a deduction in computing the profits and gains of such previous year; or

(b) the film distributor,--

(i) himself exhibits the film on a commercial basis in all or some of the areas; or

(ii) sells the rights of exhibition of the film in respect of some of the areas; or

(iii) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is released for exhibition on a commercial basis at least <sup>1</sup>[ninety] days before the end of such previous year, the entire cost of acquisition of the film shall be allowed as a deduction in computing the profits and gains of such previous year.

(3) Where a feature film is acquired by the film distributor in any previous year and in such previous year the film distributor--

(a) himself exhibits the film on a commercial basis in all or some of the areas; or

(b) sells the rights of exhibition of the film in respect of some of the areas; or

(c) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas, and the film is not released for exhibition on a commercial basis at least <sup>2</sup>[ninety] days before the end of such previous year, the cost of acquisition of the film in so far as it does not exceed the amount realised by the film distributor by exhibiting the film on a commercial basis or the amount for which the rights of exhibition have been sold or, as the case may be, the aggregate of the amounts realised by the film distributor by exhibiting the film and by the sale of the rights of exhibition, shall be allowed as a deduction in computing the profits and gains of such previous year; and the balance, if any, shall be carried

forward to the next following previous year and allowed as a deduction in that year.

(4) Where during the previous year in which a feature film is acquired by the film distributor, he does not himself exhibit the film on a commercial basis or does not sell the rights of exhibition of the film, no deduction shall be allowed in respect of the cost of acquisition of the film in computing the profits and gains of such previous year; and the entire cost of acquisition shall be carried forward to the next following previous year and allowed as a deduction in that year.

(5) Notwithstanding anything contained in the foregoing provisions of this rule, the deduction under this rule shall not be allowed unless--

(a) in a case where the film distributor,--

(i) has himself exhibited the feature film on a commercial basis; or

(ii) has sold the rights of exhibition of the feature film; or

(iii) has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas, the amount realised by exhibiting the film, or the amount for which the rights of exhibition have been sold, or, as the case may be, the aggregate of such amounts, is credited in the books of account maintained by him in respect of the year in which the deduction is admissible ;

in a case where the film distributor has transferred the rights of exhibition of the feature film on a minimum guarantee basis, the minimum amount guaranteed and the amount, if any, received or due in excess of the guaranteed amount, or where the film distributor follows cash system of accounting, the amount received towards the minimum guarantee and the amount, if any, received in excess of the guaranteed amount, are credited in the books of account maintained by him in respect of the year in which the deduction is admissible.

(6) For the purposes of this rule,--

(i) the sale of the rights of exhibition of a feature film includes the lease of such rights or their transfer on a minimum guarantee basis;

(ii) the rights of exhibition of a feature film shall be deemed to have been sold only on the date when the positive prints of the film are delivered by the film distributor to the purchaser of such rights ;

(iii) distributor shall include a sub-distributor.

(7) Nothing contained in this rule shall apply in relation to any

assessment year commencing before the 1st day of April, 1987.

1. Substituted for "one hundred and eighty" by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999.

2. Substituted for "one hundred and eighty" by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999.

**9C. Conditions for carrying forward or set-off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation :-**

9C. <sup>1</sup>[Conditions for carrying forward or set-off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation.

The conditions referred to in clause (iii) of sub-section (2) of section 72A shall be the following, namely :--

(a) the amalgamated company, owning an industrial undertaking of the amalgamating company by way of amalgamation, shall achieve the level of production of at least fifty per cent of the installed capacity of the said undertaking before the end of four years from the date of amalgamation and continue to maintain the said minimum level of production till the end of five years from the date of amalgamation :

Provided that the Central Government, on an application made by the amalgamated company, may relax the condition of achieving the level of production or the period during which the same is to be achieved or both in suitable cases having regard to the genuine efforts made by the amalgamated company to attain the prescribed level of production and the circumstances preventing such efforts from achieving the same;

(b) the amalgamated company shall furnish to the Assessing Officer a certificate in Form No. 62, duly verified by an accountant, with reference to the books of accounts and other documents showing particulars of production, along with the return of income for the assessment year relevant to the previous year during which the prescribed level of production is achieved and for subsequent assessment years relevant to the previous years falling within five years from the date of amalgamation.

Explanation.--For the purposes of this rule,--

(a) "installed capacity" means the capacity of production existing on the date of amalgamation; and

(b) "accountant" means the accountant as defined in the Explanation below sub-section (2) of section 288 of the Income-tax

Act, 1961.]

1. Inserted by the IT (Thirty-third Amdt.) Rules, 1999, w.e.f. 15-12-1999.

### **10. Determination of income in the case of non-residents :-**

In any case in which the Assessing Officer is of opinion that the actual amount of the income accruing or arising to any non-resident person whether directly or indirectly, through or from any business connection in India or through or from any property in India or through or from any asset or source of income in India or through or from any money lent at interest and brought into India in cash or in kind cannot be definitely ascertained, the amount of such income for the purposes of assessment to income-tax may be calculated:--

- (i) at such percentage of the turnover so accruing or arising as the Assessing Officer may consider to be reasonable, or
- (ii) on any amount which bears the same proportion to the total profits and gains of the business of such person (such profits and gains being computed in accordance with the provisions of the Act), as the receipts so accruing or arising bear to the total receipts of the business, or
- (iii) in such other manner as the Assessing Officer may deem suitable.

### **10A. Meaning of expressions used in computation of arms length price :-**

<sup>1</sup>[10A. Meaning of expressions used in computation of arms length price

For the purposes of this rule and rules 10 <sup>2</sup>[BA] to 10E,-

<sup>4</sup>[(a) "associated enterprise" shall,-

- (i) have the same meaning as assigned to it in section 92A; and
- (ii) in relation to a specified domestic transaction entered into by an assessee, include --

(A) the persons referred to in clause (b) of sub-section (2) of section 40A in respect of a transaction referred to in clause (a) of sub-section (2) of the said section;

(B) other units or undertakings or businesses of such assessee in

respect of a transaction referred to in section 80A or, as the case may be, sub-section (8) of section 80-IA;

(C) any other person referred to in sub-section (10) of section 80-IA in respect of a transaction referred to therein;

(D) other units, undertakings, enterprises or business of such assessee, or other person referred to in sub-section (10) of section 80-IA, as the case may be, in respect of a transaction referred to in section 10AA or the transactions referred to in Chapter VI-A to which the provisions of sub-section (8) or, as the case may be, the provisions of sub-section (10) of section 80-IA are applicable;

(aa) "enterprise" shall have the same meaning as assigned to it in clause (iii) of section 92F and shall, for the purposes of a specified domestic transaction, include a unit, or an enterprise, or an undertaking or a business of a person who undertakes such transaction;]

<sup>3</sup>[(ab)] uncontrolled transaction means a transaction between enterprises other than associated enterprises, whether resident or non-resident;

(b) property includes goods, articles or things, and intangible property;

(c) services include financial services;

(d) transaction includes a number of closely linked transactions.

1. Inserted by the Income-tax (twenty first Amendment) Rules , 2001 w.e.f 21.08.2001.

2. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "10B"

3. Re-numbered by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "(a)"

4. Inserted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013.

### **10AB. Other method of determination of arms length price**

:-

<sup>1</sup>[For the purposes of clause (f) of sub-section (1) of section 92C, the other method for determination of the arms length price in relation to an international transaction <sup>2</sup>[or a specified domestic transaction] shall be any method which takes into account the price

which has been charged or paid, or would have been charged or paid, for the same or similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts.]

1. Inserted by the Income-tax (6th Amendment) Rules, 2012 vide Notification No. 18/2012 dated 23.05.2012 w.e.f. 01.04.2012.

2. Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013.

### **10B. Determination of arms length price under section 92C**

:-

<sup>1</sup>10B. Determination of arms length price under section 92C.--

(1) For the purposes of sub-section (2) of section 92C, the arms length price in relation to <sup>3</sup>[an international transaction or a specified domestic transaction] shall be determined by any of the following methods, being the most appropriate method, in the following manner, namely:-

(a) comparable uncontrolled price method, by which,-

(i) the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, or a number of such transactions, is identified;

(ii) such price is adjusted to account for differences, if any, between <sup>4</sup>[the international transaction or the specified domestic transaction] and the comparable uncontrolled transactions or between the enterprises entering into such transactions, which could materially affect the price in the open market;

(iii) the adjusted price arrived at under sub-clause (ii) is taken to be an arms length price in respect of the property transferred or services provided in <sup>4</sup>[the international transaction or the specified domestic transaction];

(b) resale price method, by which,-

(i) the price at which property purchased or services obtained by the enterprise from an associated enterprise is resold or are provided to an unrelated enterprise, is identified;

(ii) such resale price is reduced by the amount of a normal gross profit margin accruing to the enterprise or to an unrelated enterprise from the purchase and resale of the same or similar property or from obtaining and providing the same or similar services, in a comparable uncontrolled transaction, or a number of such transactions;



- (iii) the price so arrived at is further reduced by the expenses incurred by the enterprise in connection with the purchase of property or obtaining of services;
  - (iv) the price so arrived at is adjusted to take into account the functional and other differences, including differences in accounting practices, if any, between 4[the international transaction or the specified domestic transaction] and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of gross profit margin in the open market;
  - (v) the adjusted price arrived at under sub-clause(iv) is taken to be an arms length price in respect of the purchase of the property or obtaining of the services by the enterprise from the associated enterprise;
- (c) cost plus method, by which,-
- (i) the direct and indirect costs of production incurred by the enterprise in respect of property transferred or services provided to an associated enterprise, are determined;
  - (ii) the amount of a normal gross profit mark-up to such costs (computed according to the same accounting norms) arising from the transfer or provision of the same or similar property or services by the enterprise, or by an unrelated enterprise, in a comparable uncontrolled transaction, or a number of such transactions, is determined;
  - (iii) the normal gross profit mark-up referred to in sub-clause (ii) is adjusted to take into account the functional and other differences, if any, between 4[the international transaction or the specified domestic transaction] and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect such profit mark-up in the open market;
  - (iv) the costs referred to in sub-clause(i) are increased by the adjusted profit mark-up arrived at under sub-clause (iii);
  - (v) the sum so arrived at is taken to be an arms length price in relation to the supply of the property or provision of services by the enterprise;
- (d) profit split method, which may be applicable mainly in 5[international transactions or specified domestic transactions] involving transfer of unique intangibles or in multiple 5[international transactions or specified domestic transactions] which are so interrelated that they cannot be evaluated separately for the purpose of determining the arms length price of any one

transaction, by which-

(i) the combined net profit of the associated enterprises arising from <sup>4</sup>[the international transaction or the specified domestic transaction] in which they are engaged, is determined;

(ii) the relative contribution made by each of the associated enterprises to the earning of such combined net profit, is then evaluated on the basis of the functions performed, assets employed or to be employed and risks assumed by each enterprise and on the basis of reliable external market data which indicates how such contribution would be evaluated by unrelated enterprises performing comparable functions in similar circumstances;

(iii) the combined net profit is then split amongst the enterprises in proportion to their relative contributions, as evaluated under sub-clause (ii);

(iv) the profit thus apportioned to the assessee is taken into account to arrive at an arms length price in relation to the international transaction:

Provided that the combined net profit referred to in sub-clause (i) may, in the first instance, be partially allocated to each enterprise so as to provide it with a basic return appropriate for the <sup>6</sup>[type of international transaction or specified domestic transaction] in which it is engaged, with reference to market returns achieved for similar types of transactions by independent enterprises, and thereafter, the residual net profit remaining after such allocation may be split amongst the enterprises in proportion to their relative contribution in the manner specified under sub-clauses (ii) and (iii), and in such a case the aggregate of the net profit allocated to the enterprise in the first instance together with the residual net profit apportioned to that enterprise on the basis of its relative contribution shall be taken to be the net profit arising to that enterprise from the international transaction;

(e) transactional net margin method, by which,-

(i) the net profit margin realised by the enterprise from an international transaction entered into with an associated enterprise is computed in relation to costs incurred or sales effected or assets employed or to be employed by the enterprise or having regard to any other relevant base;

(ii) the net profit margin realised by the enterprise or by an unrelated enterprise from a comparable uncontrolled transaction or a number of such transactions is computed having regard to the same base;

(iii) the net profit margin referred to in sub-clause (ii) arising in

comparable uncontrolled transactions is adjusted to take into account the differences, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of net profit margin in the open market;

(iv) the net profit margin realised by the enterprise and referred to in sub-clause (i) is established to be the same as the net profit margin referred to in sub-clause (iii);

(v) the net profit margin thus established is then taken into account to arrive at an arms length price in relation to the international transaction.

<sup>2</sup>[(f) Any other method as provided in rule 10AB.]

(2) For the purposes of sub-rule (1), the comparability of an international transaction with an uncontrolled transaction shall be judged with reference to the following, namely:-

(a) the specific characteristics of the property transferred or services provided in either transaction;

(b) the functions performed, taking into account assets employed or to be employed and the risks assumed, by the respective parties to the transactions;

(c) the contractual terms (whether or not such terms are formal or in writing) of the transactions which lay down explicitly or implicitly how the responsibilities, risks and benefits are to be divided between the respective parties to the transactions;

(d) conditions prevailing in the markets in which the respective parties to the transactions operate, including the geographical location and size of the markets, the laws and government orders in force, costs of labour and capital in the markets, overall economic development and level of competition and whether the markets are wholesale or retail.

(3) An uncontrolled transaction shall be comparable to an international transaction if -

(i) none of the differences, if any, between the transactions being compared, or between the enterprises entering into such transactions are likely to materially affect the price or cost charged or paid in, or the profit arising from, such transactions in the open market; or

(ii) reasonably accurate adjustments can be made to eliminate the material effects of such differences.

(4) The data to be used in analysing the comparability of an uncontrolled transaction with <sup>3</sup>[an international transaction or a

specified domestic transaction] shall be the data relating to the financial year in which the international transaction has been entered into:

Provided that data relating to a period not being more than two years prior to such financial year may also be considered if such data reveals facts which could have an influence on the determination of transfer prices in relation to the transactions being compared.

1. Inserted by the Income-tax (twenty first Amendment) Rules , 2001 w.e.f 21.08.2001.

2. Inserted by the Income-tax (6th Amendment) Rules, 2012 vide Notification No. 18/2012 dated 23.05.2012 w.e.f. 01.04.2012.

3. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "an international transaction"

4. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "the international transaction"

5. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "international transactions"

6. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "type of international transaction"

### **10C. Most appropriate method :-**

#### **<sup>1</sup>10C. Most appropriate method**

(1) For the purposes of sub-section (1) of section 92C, the most appropriate method shall be the method which is best suited to the facts and circumstances of each <sup>2</sup>[particular international transaction or specified domestic transaction], and which provides the most reliable measure of an arms length price in relation to <sup>4</sup>[the international transaction or the specified domestic transaction] <sup>3</sup>[or the specified domestic transaction, as the case may be].

(2) In selecting the most appropriate method as specified in sub-rule (1), the following factors shall be taken into account, namely:-

(a) the nature and class of <sup>4</sup>[the international transaction or the specified domestic transaction];

- (b) the class or classes of associated enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risks assumed by such enterprises;
- (c) the availability, coverage and reliability of data necessary for application of the method;
- (d) the degree of comparability existing between <sup>4</sup>[the international transaction or the specified domestic transaction] and the uncontrolled transaction and between the enterprises entering into such transactions;
- (e) the extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions;
- (f) the nature, extent and reliability of assumptions required to be made in application of a method.

1. Inserted by the Income-tax (twenty first Amendment) Rules , 2001 w.e.f 21.08.2001.

2. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following :- "particular international transaction"

3. Inserted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013.

4. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "the international transaction"

**10D. Information and documents to be kept and maintained under section 92D :-**

<sup>1</sup>10D. Information and documents to be kept and maintained under section 92D.--

( 1 ) Every person who has entered into <sup>3</sup>[ a n international transaction or a specified domestic transaction] shall keep and maintain the following information and documents, namely:-

( a ) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;

( b ) a profile of the multinational group of which the assessee

enterprise is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom international transactions <sup>4</sup>[or specified domestic transactions, as the case may be,] have been entered into by the assessee, and ownership linkages among them;

(c) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;

(d) the nature and terms (including prices) of international transactions <sup>4</sup>[or specified domestic transactions] entered into with each associated enterprise, details of property transferred or services provided and the quantum and the value of each such transaction or class of such transaction;

(e) a description of the functions performed, risks assumed and assets employed or to be employed by the assessee and by the associated enterprises involved in <sup>2</sup>[the international transaction or the specified domestic transaction];

(f) a record of the economic and market analyses, forecasts, budgets or any other financial estimates prepared by the assessee for the business as a whole and for each division or product separately, which may have a bearing on <sup>2</sup>[the international transaction <sup>4</sup>[or the specified domestic transactions] or the specified domestic transaction] entered into by the assessee;

(g) a record of uncontrolled transactions taken into account for analysing their comparability with <sup>2</sup>[the international transaction <sup>4</sup>[or the specified domestic transactions] or the specified domestic transaction] entered into, including a record of the nature, terms and conditions relating to any uncontrolled transaction with third parties which may be of relevance to the pricing of the international transactions <sup>4</sup>[or specified domestic transactions, as the case may be] ;

(h) a record of the analysis performed to evaluate comparability of uncontrolled transactions with the relevant <sup>5</sup>[international transaction or specified domestic transaction];

(i) a description of the methods considered for determining the arms length price in relation to each <sup>5</sup>[international transaction or specified domestic transaction] or class of transaction, the method selected as the most appropriate method along with explanations as to why such method was so selected, and how such method was applied in each case;

(j) a record of the actual working carried out for determining the

arms length price, including details of the comparable data and financial information used in applying the most appropriate method, and adjustments, if any, which were made to account for differences between <sup>2</sup>[the international transaction or the specified domestic transaction] and the comparable uncontrolled transactions, or between the enterprises entering into such transactions;

(k) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the arms length price;

(l) details of the adjustments, if any, made to transfer prices to align them with arms length prices determined under these rules and consequent adjustment made to the total income for tax purposes;

(m) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the arms length price.

(2) <sup>6</sup>[Nothing contained in sub-rule (1), in so far as it relates to an international transaction, shall] apply in a case where the aggregate value, as recorded in the books of account, of international transactions entered into by the assessee does not exceed one crore rupees:

Provided that the assessee shall be required to substantiate, on the basis of material available with him, that income arising from international transactions entered into by him has been computed in accordance with section 92.

<sup>7</sup>[(2A) Nothing contained in sub-rule (1), in so far as it relates to an eligible specified domestic transaction referred to in rule 10 THB , shall apply in a case of an eligible assessee referred to in rule 10 THA and, the said eligible assessee, shall keep and maintain the following information and documents, namely:-

(i) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;

(ii) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;

(iii) the nature and terms (including prices) of specified domestic transactions entered into with each associated enterprise and the quantum and the value of each such transaction or class of such transaction;

(iv) a record of proceedings if any before the regulatory commission and orders of such commission relating to the specified domestic

transaction;

(v) a record of the actual working carried out for determining the transfer price of the specified domestic transaction;

(vi) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the transfer price;

(vii) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the transfer price.]

(3) The information specified in 8[sub-rules (1) and (2A)] shall be supported by authentic documents, which may include the following:

(a) official publications, reports, studies and data bases from the Government of the country of residence of the associated enterprise, or of any other country;

(b) reports of market research studies carried out and technical publications brought out by institutions of national or international repute;

(c) price publications including sk exchange and commodity market quotations;

(d) published accounts and financial statements relating to the business affairs of the associated enterprises;

(e) agreements and contracts entered into with associated enterprises or with unrelated enterprises in respect of transactions similar to <sup>2</sup>[the international transaction <sup>4</sup>[or the specified domestic transactions, as the case may be] or the specified domestic transaction];

(f) letters and other correspondence documenting any terms negotiated between the assessee and the associated enterprise;

(g) documents normally issued in connection with various transactions under the accounting practices followed.

(4) The information and documents specified under 9[sub-rules (1), (2) and (2A)], should, as far as possible, be contemporaneous and should exist latest by the specified date referred to in clause (iv) of section 92F:

Provided that where <sup>3</sup>[an international transaction or a specified domestic transaction] continues to have effect over more than one previous years, fresh documentation need not be maintained separately in respect of each previous year, unless there is any significant change in the nature or terms of the international transaction <sup>6</sup>[or the specified domestic transaction, as the case may be], in the assumptions made, or in any other factor which could



influence the transfer price, and in case of such significant change, fresh documentation as may be necessary under <sup>9</sup>[sub-rules (1), (2) and (2A)] shall be maintained bringing out the impact of the change on the pricing of <sup>2</sup>[the international transaction or the specified domestic transaction].

(5) The information and documents specified in <sup>9</sup>[sub-rules (1), (2) and (2A)] shall be kept and maintained for a period of eight years from the end of the relevant assessment year.

1. Inserted by the Income-tax (twenty first Amendment) Rules , 2001 w.e.f 21.08.2001.

2. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "the international transactions"

3. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "an international transaction"

4. Inserted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013.

5. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "international transaction"

6. Substituted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013 for the following : - "Nothing contained in sub-rule (1) shall"

7. Inserted by the Income-tax (2nd Amendment), Rules, 2015 vide Notification No. 11/2015 dated 04.02.2015.

8. Substituted by the Income-tax (2nd Amendment), Rules, 2015 vide Notification No. 11/2015 dated 04.02.2015 for the following : - " sub-rule (1)"

9. Substituted by the Income-tax (2nd Amendment), Rules, 2015 vide Notification No. 11/2015 dated 04.02.2015 for the following : - "sub-rules (1) an

**10E. Report from an accountant to be furnished under section 92E :-**

<sup>1</sup>10E. Report from an accountant to be furnished under section 92E.--

The report from an accountant required to be furnished under section 92E by every person who has entered into an international

transaction <sup>2</sup>[or a specified domestic transaction] during a previous year shall be in Form No. 3CEB and be verified in the manner indicated therein.]

1 Inserted by the Income-tax (twenty first Amendment) Rules , 2001 w.e.f 21.08.2001.

2. Inserted by the Income-tax (Sixth Amendment) Rules, 2013 vide Notification No. 41/2013 dated 10.06.2013 w.e.f. 01.04.2013.

**10F. Meaning of expressions used in matters in respect of advance pricing agreement :-**

For the purposes of this rule and rules 10G to 10-I,-

(a) agreement means an advance pricing agreement entered into between the Board and the applicant, with the approval of the Central Government, as referred to in sub-section (1) of section 92CC of the Act;

(b) "application" means an application for advance pricing agreement made under rule 10T;

<sup>3</sup>[(ba) "applicant" means a person who has made an application;]

(c) "bilateral agreement" means an agreement between the Board and the applicant, subsequent to, and based on, any agreement referred to in rule 44GA between the competent authority in India with the competent authority in the other country regarding the most appropriate transfer pricing method or the arms length price;

(d) "competent authority in India" means an officer authorised by the Central Government for the purpose of discharging the functions as such for matters in respect of any agreement entered into under section 90 or 90A of the Act;

(e) "covered transaction" means the international transaction or transactions for which agreement has been entered into;

(f) "critical assumptions" means the factors and assumptions that are so critical and significant that neither party entering into an agreement will continue to be bound by the agreement, if any of the factors or assumptions is changed;

(g) "most appropriate transfer pricing method" means any of the transfer pricing method, referred to in sub-section (1) of section 92C of the Act, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or function performed by such persons or such other relevant factors prescribed by the Board under rules 10B and 10C;

(h) "multilateral agreement" means an agreement between the Board and the applicant, subsequent to, and based on, any agreement referred to in rule 44GA between the competent authority in India with the competent authorities in the other countries regarding the most appropriate transfer pricing method or the arms length price;

<sup>3</sup>[(ha) "rollback year" means any previous year, falling within the period not exceeding four previous years, preceding the first of the previous years referred to in sub-section (4) of section 92CC;]

(i) "tax treaty" means an agreement under section 90, or section 90A, of the Act for the avoidance of double taxation;

(j) "team" means advance pricing agreement team consisting of income-tax authorities as constituted by the Board and including such number of experts in economics, statistics, law or any other field as may be nominated by the Director General of Income-tax (International Taxation);

(k) "unilateral agreement" means an agreement between the Board and the applicant which is neither a bilateral nor multilateral agreement.

#### **10G. Persons eligible to apply :-**

Any person who-

(i) has undertaken an international transaction; or

(ii) is contemplating to undertake an international transaction, shall be eligible to enter into an agreement under these rules.

#### **10H. Pre-filing Consultation :-**

(1) <sup>4</sup>[Any] person proposing to enter into an agreement under these rules <sup>5</sup>[may], by an application in writing, make a request for a pre-filing consultation.

(2) The request for pre-filing consultation shall be made in Form No. 3 CEC to the Director General of Income-tax (International Taxation).

(3) On receipt of the request in Form No. 3 CEC, the team shall hold pre-filing consultation with the person referred to in rule 10G.

(4) The competent authority in India or his representative shall be associated in pre-filing consultation involving bilateral or multilateral agreement.

(5) The pre-filing consultation shall, among other things,-

(i) determine the scope of the agreement;

(ii) identify transfer pricing issues;

- (iii) determine the suitability of international transaction for the agreement;
  - (iv) discuss broad terms of the agreement.
- (6) The pre-filing consultation shall-
- (i) not bind the Board or the person to enter into an agreement or initiate the agreement process;
  - (ii) not be deemed to mean that the person has applied for entering into an agreement.

**10I. Application for advance pricing agreement :-**

- (1) Any person, <sup>6</sup>[referred to in rule 10 G] may, if desires to enter into an agreement furnish an application in Form No. 3 CED along with the requisite fee.
- (2) The application shall be furnished to Director General of Income-tax (International Taxation) in case of unilateral agreement and to the competent authority in India in case of bilateral or multilateral agreement.
- (3) Application in Form No. 3 CED may be filed by the person referred to in rule 10G at any time-
- (i) before the first day of the previous year relevant to the first assessment year for which the application is made, in respect of transactions which are of a continuing nature from dealings that are already occurring; or
  - (ii) before undertaking the transaction in respect of remaining transactions.
- (4) Every application in Form No. 3 CED shall be accompanied by the proof of payment of fees as specified in sub-rule (5).
- (5) The fees payable shall be in accordance with following table based on the amount of international transaction entered into or proposed to be undertaken in respect of which the agreement is proposed:

Amount of international transaction entered into or proposed to be undertaken in respect of which agreement is proposed during the proposed period of agreement.	Fee
Amount not exceeding Rs. 100 crores	10 lacs
Amount not exceeding Rs. 200 crores	15 lacs
Amount exceeding Rs. 200 crores	20 lacs

**10J. Withdrawal of application for agreement :-**

- (1) The applicant may withdraw the application for agreement at

any time before the finalisation of the terms of the agreement.

(2) The application for withdrawal shall be in Form No. 3CEE.

(3) The fee paid shall not be refunded on withdrawal of application by the applicant.

**10K. Preliminary processing of application :-**

(1) Every application filed in Form No. 3CED shall be complete in all respects and accompanied by requisite documents.

(2) If any defect is noticed in the application in Form No. 3CED or if any relevant document is not attached thereto or the application is not in accordance with understanding reached in 3[any] pre-filing consultation referred to in rule 10H, the Director General of Income-tax (International Taxation) (for unilateral agreement) and competent authority in India (for bilateral or multilateral agreement) shall serve a deficiency letter on the applicant before the expiry of one month from the date of receipt of the application.

(3) The applicant shall remove the deficiency or modify the application within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf, may be extended, so however, that the total period of removal of deficiency or modification does not exceed thirty days.

(4) The Director General of Income-tax (International Taxation) or the competent authority in India, as the case may be, on being satisfied, may pass an order providing that application shall not be allowed to be proceeded with if the application is defective and defect is not removed by applicant in accordance with sub-rule (3).

(5) No order under sub-rule (4) shall be passed without providing an opportunity of being heard to the applicant and if an application is not allowed to be proceeded with, the fee paid by the applicant shall be refunded.

**10L. Procedure :-**

(1) If the application referred to in rule 10K has been allowed to be proceeded with, the team or the competent authority in India or his representative shall process the same in consultation and discussion with the applicant in accordance with provisions of this rule.

(2) For the purpose of sub-rule (1), it shall be competent for the team or the competent authority in India or its representative to-

(i) hold meetings with the applicant on such time and date as it deem fit;

- (ii) call for additional document or information or material from the applicant;
  - (iii) visit the applicants business premises; or
  - (iv) make such inquiries as it deems fit in the circumstances of the case.
- (3) For the purpose of sub-rule (1), the applicant may, if he considers it necessary, provide further document and information for consideration of the team or the competent authority in India or his representative.
- (4) For bilateral or multilateral agreement, the competent authority shall forward the application to Director General of Income-tax (International Taxation) who shall assign it to one of the teams.
- (5) The team, to whom the application has been assigned under sub-rule (4), shall carry out the enquiry and prepare a draft report which shall be forwarded by the Director General of Income-tax (International Taxation) to the competent authority in India.
- (6) If the Applicant makes a request for bilateral or multilateral agreement in its application, the competent authority in India shall in addition to the procedure provided in this rule invoke the procedure provided in the rule 44 GA.
- (7) The Director General of Income-tax (International Taxation) (for unilateral agreement) or the competent authority in India (for bilateral or multilateral agreement) and the applicant shall prepare a proposed mutually agreed draft agreement enumerating the result of the process referred to in sub-rule (1) including the effect of the arrangement referred to in sub-rule (5) of rule 44GA which has been accepted by the applicant in accordance with sub-rule (8) of the said rule.
- (8) The agreement shall be entered into by the Board with the applicant after its approval by the Central Government.
- (9) Once an agreement has been entered into the Director General of Income-tax (International Taxation) or the competent authority in India, as the case may be, shall cause a copy of the agreement to be sent to the Commissioner of Income-tax having jurisdiction over the assessee.

**10M. Terms of the agreement :-**

- (1) An agreement may among other things, include -
- (i) the international transactions covered by the agreement;
  - (ii) the agreed transfer pricing methodology, if any;
  - (iii) determination of arms length price, if any;

- (iv) definition of any relevant term to be used in item (ii) or (iii);
  - (v) critical assumptions;
  - <sup>3</sup>[(va) rollback provision referred to in rule 10 MA;]
  - (vi) the conditions if any other than provided in the Act or these rules.
- (2) The agreement shall not be binding on the Board or the assessee if there is a change in any of critical assumptions or failure to meet conditions subject to which the agreement has been entered into.
- (3) The binding effect of agreement shall cease only if any party has given due notice of the concerned other party or parties.
- (4) In case there is a change in any of the critical assumptions or failure to meet the conditions subject to which the agreement has been entered into, the agreement can be revised or cancelled, as the case may be.
- (5) The assessee which has entered into an agreement shall give a notice in writing of such change in any of the critical assumptions or failure to meet conditions to the Director General of Income-tax (International Taxation) as soon as it is practicable to do so.
- (6) The Board shall give a notice in writing of such change in critical assumptions or failure to meet conditions to the assessee, as soon as it comes to the knowledge of the Board.
- (7) The revision or the cancellation of the agreement shall be in accordance with rules 10Q and 10R respectively.

**10MA. Roll Back of the Agreement :-**

<sup>3</sup>[10MA. Roll Back of the Agreement.-

- (1) Subject to the provisions of this rule, the agreement may provide for determining the arms length price or specify the manner in which arms length price shall be determined in relation to the international transaction entered into by the person during the rollback year (hereinafter referred to as "rollback provision").
- (2) The agreement shall contain rollback provision in respect of an international transaction subject to the following, namely:-
- (i) the international transaction is same as the international transaction to which the agreement (other than the rollback provision) applies;
  - (ii) the return of income for the relevant rollback year has been or is furnished by the applicant before the due date specified in Explanation 2 to sub-section (1) of section 139;
  - (iii) the report in respect of the international transaction had been

furnished in accordance with section 92E;

(iv) the applicability of rollback provision, in respect of an international transaction, has been requested by the applicant for all the rollback years in which the said international transaction has been undertaken by the applicant; and

(v) the applicant has made an application seeking rollback in Form 3CEDA in accordance with sub-rule (5);

(3) Notwithstanding anything contained in sub-rule (2), rollback provision shall not be provided in respect of an international transaction for a rollback year, if,-

(i) the determination of arms length price of the said international transaction for the said year has been subject matter of an appeal before the Appellate Tribunal and the Appellate Tribunal has passed an order disposing of such appeal at any time before signing of the agreement; or

(ii) the application of rollback provision has the effect of reducing the total income or increasing the loss, as the case may be, of the applicant as declared in the return of income of the said year.

(4) Where the rollback provision specifies the manner in which arms length price shall be determined in relation to an international transaction undertaken in any rollback year then such manner shall be the same as the manner which has been agreed to be provided for determination of arms length price of the same international transaction to be undertaken in any previous year to which the agreement applies, not being a rollback year.

(5) The applicant may, if he desires to enter into an agreement with rollback provision, furnish along with the application, the request for the same in Form No. 3 CEDA with proof of payment of an additional fee of five lakh rupees:

<sup>7</sup>[Provided that in a case where an application has been filed on or before the 31st day of March, 2015, Form No. 3CEDA along with proof of payment of additional fee may be filed at any time on or before the 30th day of June, 2015 or the date of entering into the agreement whichever is earlier:

Provided further that in a case where an agreement has been entered into on or before the 31st day of March, 2015, Form No. 3CEDA along with proof of payment of additional fee may be filed at any time on or before the 30th day of June, 2015 and, notwithstanding anything contained in rule 10Q, the agreement may be revised to provide for rollback provision in the said agreement in accordance with this rule.]]



### **10N. Amendments to Application :-**

(1) An applicant may request in writing for an amendment to an application at any stage, before the finalisation of the terms of the agreement.

(2) The Director General of Income-tax (International Taxation) (for unilateral agreement) or the competent authority in India (for bilateral or multilateral agreement) may, allow the amendment to the application, if such an amendment does not have effect of altering the nature of the application as originally filed.

(3) The amendment shall be given effect only if it is accompanied by the additional fee, if any, necessitated by such amendment in accordance with fee as provided in rule 10-I.

### **10O. Furnishing of Annual Compliance Report :-**

(1) The assessee shall furnish an annual compliance report to Director General of Income-tax (International Taxation) for each year covered in the agreement.

(2) The annual compliance report shall be in Form 3CEF.

(3) The annual compliance report shall be furnished in quadruplicate, for each of the years covered in the agreement, within thirty days of the due date of filing the income-tax return for that year, or within ninety days of entering into an agreement, whichever is later.

(4) The Director General of Income-tax (International Taxation) shall send one copy of annual compliance report to the competent authority in India, one copy to the Commissioner of Income-tax who has the jurisdiction over the income-tax assessment of the assessee and one copy to the Transfer Pricing Officer having the jurisdiction over the assessee.

### **10P. Compliance Audit of the agreement :-**

(1) The Transfer Pricing Officer having the jurisdiction over the assessee shall carry out the compliance audit of the agreement for each of the year covered in the agreement.

(2) For the purposes of sub-rule(1), the Transfer Pricing Officer may require -

(i) the assessee to substantiate compliance with the terms of the agreement, including satisfaction of the critical assumptions, correctness of the supporting data or information and consistency of the application of the transfer pricing method;

(ii) the assessee to submit any information, or document, to establish that the terms of the agreement has been complied with.

(3) The Transfer Pricing Officer shall submit the compliance audit report, for each year covered in the agreement, to the Director General of Income-tax (International Taxation) in case of unilateral agreement and to the competent authority in India, in case of bilateral or multilateral agreement, mentioning therein his findings as regards compliance by the assessee with terms of the agreement.

(4) The Director General of Income-tax (International Taxation) shall forward the report to the Board in a case where there is finding of failure on part of assessee to comply with terms of agreement and cancellation of the agreement is required.

(5) The compliance audit report shall be furnished by the Transfer Pricing Officer within six months from the end of the month in which the Annual Compliance Report referred to in rule 10-O is received by the Transfer Pricing Officer.

(6) The regular audit of the covered transactions shall not be undertaken by the Transfer Pricing Officer if an agreement has been entered into under rule 10L except where the agreement has been cancelled under rule 10R.

#### **10Q. Revision of an agreement :-**

(1) An agreement, subsequent to it having been entered into, may be revised by the Board, if.-

(a) there is a change in critical assumptions or failure to meet a condition subject to which the agreement has been entered into;

(b) there is a change in law that modifies any matter covered by the agreement but is not of the nature which renders the agreement to be non-binding ; or

(c) there is a request from competent authority in the other country requesting revision of agreement, in case of bilateral or multilateral agreement.

(2) An agreement may be revised by the Board either suo moto or on request of the assessee or the competent authority in India or the Director General of Income-tax (International Taxation).

(3) Except when the agreement is proposed to be revised on the request of the assessee, the agreement shall not be revised unless an opportunity of being heard has been provided to the assessee and the assessee is in agreement with the proposed revision.

(4) In case the assessee is not in agreement with the proposed

revision the agreement may be cancelled in accordance with rule-10R.

(5) In case the Board is not in agreement with the request of the assessee for revision of the agreement, the Board shall reject the request in writing giving reason for such rejection.

(6) For the purpose of arriving at the agreement for the proposed revision, the procedure provided in rule 10 L may be followed so far as they apply.

(7) The revised agreement shall include the date till which the original agreement is to apply and the date from which the revised agreement is to apply.

**10R. Cancellation of an agreement :-**

(1) An agreement shall be cancelled by the Board for any of the following reasons:

(i) the compliance audit referred to in rule 10P has resulted in the finding of failure on the part of the assessee to comply with the terms of the agreement;

(ii) the assessee has failed to file the annual compliance report in time;

(iii) the annual compliance report furnished by the assessee contains material errors; or

(iv) the agreement is to be cancelled under sub-rule (4) of rule 10Q 3[or sub-rule (7) of rule 10 RA].

(2) The Board shall give an opportunity of being heard to the assessee, before proceeding to cancel an application.

(3) The competent authority in India shall communicate with the competent authority in the other country or countries and provide reason for the proposed cancellation of the agreement in case of bilateral or multilateral agreement.

(4) The order of cancellation of the agreement shall be in writing and shall provide reasons for cancellation and for non-acceptance of assessee's submission, if any.

(5) The order of cancellation shall also specify the effective date of cancellation of the agreement, where applicable.

(6) The order under the Act, declaring the agreement as void ab initio, on account of fraud or misrepresentation of facts, shall be in writing and shall provide reason for such declaration and for non-acceptance of assessee's submission, if any.

(7) The order of cancellation shall be intimated to the Assessing Officer and the Transfer Pricing Officer, having jurisdiction over the

assessee.

**10RA. Procedure for giving effect to rollback provision of an Agreement :-**

**3**[10RA. Procedure for giving effect to rollback provision of an Agreement.-

(1) The effect to the rollback provisions of an agreement shall be given in accordance with this rule.

(2) The applicant shall furnish modified return of income referred to in section 92CD in respect of a rollback year to which the agreement applies along with the proof of payment of any additional tax arising as a consequence of and computed in accordance with the rollback provision.

(3) The modified return referred to in sub-rule(2) shall be furnished along with the modified return to be furnished in respect of first of the previous years for which the agreement has been requested for in the application.

(4) If any appeal filed by the applicant is pending before the Commissioner (Appeals), Appellate Tribunal or the High Court for a rollback year, on the issue which is the subject matter of the rollback provision for that year, the said appeal to the extent of the subject covered under the agreement shall be withdrawn by the applicant before furnishing the modified return for the said year.

(5) If any appeal filed by the Assessing Officer or the Principal Commissioner or Commissioner is pending before the Appellate Tribunal or the High Court for a rollback year, on the issue which is subject matter of the rollback provision for that year, the said appeal to the extent of the subject covered under the agreement shall be withdrawn by the Assessing Officer or the Principal Commissioner or the Commissioner, as the case may be, within three months of filing of modified return by the applicant.

( 6 ) The applicant, the Assessing Officer or the Principal Commissioner or the Commissioner, shall inform the Dispute Resolution Panel or the Commissioner (Appeals) or the Appellate Tribunal or the High Court, as the case may be, the fact of an agreement containing rollback provision having been entered into along with a copy of the same as soon as it is practicable to do so.

(7) In case effect cannot be given to the rollback provision of an agreement in accordance with this rule, for any rollback year to which it applies, on account of failure on the part of applicant, the agreement shall be cancelled.]

## **10S. Renewing an agreement :-**

Request for renewal of an agreement may be made as a new application for agreement, using the same procedure as outlined in these rules except pre-filing consultation as referred to in rule 10H.

## **10T. Miscellaneous :-**

(1) Mere filing of a application for an agreement under these rules shall not prevent the operation of Chapter X of the Act for determination of arms length price under that Chapter till the agreement is entered into.

(2) The negotiation between the competent authority in India and the competent authority in the other country or countries, in case of bilateral or multilateral agreement, shall be carried out in accordance with the provisions of the tax treaty between India and the other country or countries.]

## **10TA. Definitions :-**

<sup>2</sup>[10TA. Definitions.--

For the purposes of this rule and rule 10TB to rule 10TG, -

(a) "contract research and development services wholly or partly relating to software development" means the following, namely:-

(i) research and development producing new theorems and algorithms in the field of theoretical computer science;

(ii) development of information technology at the level of operating systems, programming languages, data management, communications software and software development tools;

(iii) development of Internet technology;

(iv) research into methods of designing, developing, deploying or maintaining software;

(v) software development that produces advances in generic approaches for capturing, transmitting, storing, retrieving, manipulating or displaying information;

(vi) experimental development aimed at filling technology knowledge gaps as necessary to develop a software programme or system;

(vii) research and development on software tools or technologies in specialised areas of computing (image processing, geographic data presentation, character recognition, artificial intelligence and such other areas); or

(viii) upgradation of existing products where source code has been

made available by the principal;

(b) "core auto components" means,--

(i) engine and engine parts, including piston and piston rings, engine valves and parts cooling systems and parts and power train components;

(ii) transmission and steering parts, including gears, wheels, steering systems, axles and clutches;

(iii) suspension and braking parts, including brake and brake assemblies, brake linings, shock absorbers and leaf springs;

(c) "corporate guarantee" means explicit corporate guarantee extended by a company to its wholly owned subsidiary being a non-resident in respect of any short-term or long-term borrowing.

Explanation.- For the purposes of this clause, explicit corporate guarantee does not include letter of comfort, implicit corporate guarantee, performance guarantee or any other guarantee of similar nature;

(d) "generic pharmaceutical drug" means a drug that is comparable to a drug already approved by the regulatory authority in dosage form, strength, route of administration, quality and performance characteristics, and intended use;

(e) "information technology enabled services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:-

(i) back office operations;

(ii) call centres or contact centre services;

(iii) data processing and data mining;

(iv) insurance claim processing;

(v) legal databases;

(vi) creation and maintenance of medical transcription excluding medical advice;

(vii) translation services;

(viii) payroll;

(ix) remote maintenance;

(x) revenue accounting;

(xi) support centres;

(xii) website services;

(xiii) data search integration and analysis;

(xiv) remote education excluding education content development;

or

(xv) clinical database management services excluding clinical trials, but does not include any research and development services whether or not in the nature of contract research and development

services;

(f) "intra-group loan" means loan advanced to wholly owned subsidiary being a nonresident, where the loan-

(i) is sourced in Indian rupees;

(ii) is not advanced by an enterprise, being a financial company including a bank or a financial institution or an enterprise engaged in lending or borrowing in the normal course of business; and

(iii) does not include credit line or any other loan facility which has no fixed term for repayment;

(g) "knowledge process outsourcing services" means the following business process outsourcing services provided mainly with the assistance or use of information technology requiring application of knowledge and advanced analytical and technical skills, namely:-

(i) geographic information system;

(ii) human resources services;

(iii) engineering and design services;

(iv) animation or content development and management;

(v) business analytics;

(vi) financial analytics; or

(vii) market research,

but does not include any research and development services whether or not in the nature of contract research and development services;

(h) "non-core auto components" mean auto components other than core auto components;

(i) "no tax or low tax country or territory" means a country or territory in which the maximum rate of income-tax is less than fifteen per cent.;

(j) "operating expense" means the costs incurred in the previous year by the assessee in relation to the international transaction during the course of its normal operations including depreciation and amortisation expenses relating to the assets used by the assessee, but not including the following, namely:-

(i) interest expense;

(ii) provision for unascertained liabilities;

(iii) pre-operating expenses;

(iv) loss arising on account of foreign currency fluctuations;

(v) extra-ordinary expenses;

(vi) loss on transfer of assets or investments;

(vii) expense on account of income-tax; and

(viii) other expenses not relating to normal operations of the assessee;

(k) "operating revenue" means the revenue earned by the assessee in the previous year in relation to the international transaction during the course of its normal operations but not including the following, namely:-

(i) interest income;

(ii) income arising on account of foreign currency fluctuations;

(iii) income on transfer of assets or investments;

(iv) refunds relating to income-tax;

(v) provisions written back;

(vi) extraordinary incomes; and

(vii) other incomes not relating to normal operations of the assessee;

(l) "operating profit margin" in relation to operating expense means the ratio of operating profit, being the operating revenue in excess of operating expense, to the operating expense expressed in terms of percentage;

(m) "software development services" means, -

( i ) business application software and information system development using known methods and existing software tools;

(ii) support for existing systems;

(iii) converting or translating computer languages;

(iv) adding user functionality to application programmes;

(v) debugging of systems;

(vi) adaptation of existing software; or

(vii) preparation of user documentation,

but does not include any research and development services whether or not in the nature of contract research and development services.

### **10TB. Eligible assessee :-**

(1) Subject to the provisions of sub-rules (2) and (3), the eligible assessee means a person who has exercised a valid option for application of safe harbour rules in accordance with rule 10TE, and -

(i) is engaged in providing software development services or information technology enabled services or knowledge process outsourcing services, with insignificant risk, to a non-resident associated enterprise (hereinafter referred as foreign principal);

(ii) has made any intra-group loan;

(iii) has provided a corporate guarantee;

(iv) is engaged in providing contract research and development



services wholly or partly relating to software development, with insignificant risk, to a foreign principal;

(v) is engaged in providing contract research and development services wholly or partly relating to generic pharmaceutical drugs, with insignificant risk, to a foreign principal; or

(vi) is engaged in the manufacture and export of core or non-core auto components and where ninety per cent. or more of total turnover during the relevant previous year is in the nature of original equipment manufacturer sales.

(2) For the purposes of identifying an eligible assessee, with insignificant risk, referred to in item (i) of sub-rule (1), the Assessing Officer or the Transfer Pricing Officer, as the case may be, shall have regard to the following factors, namely:-

(a) the foreign principal performs most of the economically significant functions involved, including the critical functions such as conceptualisation and design of the product and providing the strategic direction and framework, either through its own employees or through its other associated enterprises, while the eligible assessee carries out the work assigned to it by the foreign principal;

(b) the capital and funds and other economically significant assets including the intangibles required, are provided by the foreign principal or its other associated enterprises, and the eligible assessee is only provided a remuneration for the work carried out by it;

(c) the eligible assessee works under the direct supervision of the foreign principal or its associated enterprise which not only has the capability to control or supervise but also actually controls or supervises the activities carried out through its strategic decisions to perform core functions as well as by monitoring activities on a regular basis;

(d) the eligible assessee does not assume or has no economically significant realised risks, and if a contract shows that the foreign principal is obligated to control the risk but the conduct shows that the eligible assessee is doing so, the contractual terms shall not be the final determinant;

(e) the eligible assessee has no ownership right, legal or economic, on any intangible generated or on the outcome of any intangible generated or arising during the course of rendering of services, which vests with the foreign principal as evident from the contract and the conduct of the parties.

(3) For the purposes of identifying an eligible assessee, with

insignificant risk, referred to in items (iv) and (v) of sub-rule (1), the Assessing Officer or the Transfer Pricing Officer, as the case may be, shall have regard to the following factors, namely:-

(a) the foreign principal performs most of the economically significant functions involved in research or product development cycle, including the critical functions such as conceptualisation and design of the product and providing the strategic direction and framework, either through its own employees or through its other associated enterprises while the eligible assessee carries out the work assigned to it by the foreign principal;

(b) the foreign principal or its other associated enterprises provides the funds or capital and other economically significant assets including intangibles required for research or product development and also provides a remuneration to the eligible assessee for the work carried out by it;

(c) the eligible assessee works under the direct supervision of the foreign principal or its other associated enterprise which has not only the capability to control or supervise but also actually controls or supervises research or product development, through its strategic decisions to perform core functions as well as by monitoring activities on a regular basis;

(d) the eligible assessee does not assume or has no economically significant realised risks, and if a contract shows that the foreign principal is obligated to control the risk but the conduct shows that the eligible assessee is doing so, the contractual terms shall not be the final determinant;

(e) the eligible assessee has no ownership right, legal or economic, on the outcome of the research which vests with the foreign principal and is evident from the contract as well as the conduct of the parties.

### **10TC. Eligible international transaction :-**

Eligible international transaction means an international transaction between the eligible assessee and its associated enterprise, either or both of whom are non-resident, and which comprises of:

(i) provision of software development services;

(ii) provision of information technology enabled services;

(iii) provision of knowledge process outsourcing services;

(iv) advance of intra-group loan;

( v ) provision of corporate guarantee, where the amount guaranteed,-

- (a) does not exceed one hundred crore rupees; or
- (b) exceeds one hundred crore rupees, and the credit rating of the associated enterprise, done by an agency registered with the Securities and Exchange Board of India, is of the adequate to highest safety;
- (vi) provision of contract research and development services wholly or partly relating to software development;
- (vii) provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs;
- (viii) manufacture and export of core auto components; or
- (ix) manufacture and export of non-core auto components, by the eligible assessee.

**10TD. Safe Harbour :-**

(1) Where an eligible assessee has entered into an eligible international transaction and the option exercised by the said assessee is not held to be invalid under rule 10TE, the transfer price declared by the assessee in respect of such transaction shall be accepted by the income-tax authorities, if it is in accordance with the circumstances as specified in sub-rule (2).

(2) The circumstances referred to in sub-rule (1) in respect of the eligible international transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in column (3) of the said Table:-

<b>S. No.</b>	<b>Eligible International Transaction</b>	<b>Circumstances</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Provision of software development services referred to in item (i) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is- (i) not less than 20 per cent., where the aggregate value of such transactions entered into during the previous year does not exceed a sum of five hundred crore rupees; or (ii) not less than 22 per cent., where the aggregate value of such transactions entered into during the previous year exceeds a sum of five hundred crore rupees.
2.	Provision of information technology enabled services referred to in item (ii) of rule	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to

	10TC.	operating expense is - (i) not less than 20 per cent., where the aggregate value of such transactions entered into during the previous year does not exceed a sum of five hundred crore rupees; or (ii) not less than 22 per cent., where the aggregate value of such transactions entered into during the previous year exceeds a sum of five hundred crore rupees.
3.	Provision of knowledge process outsourcing services referred to in item (iii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 25 per cent..
4.	Advancing of intra-group loans referred to in item (iv) of rule	The Interest rate declared in relation to the eligible international transaction is not less
	10TC where the amount of loan does not exceed fifty crore rupees.	than the base rate of State Bank of India as on 30th June of the relevant previous year plus 150 basis points.
5.	Advancing of intra-group loans referred to in item (iv) of rule 10TC where the amount of loan exceeds fifty crore rupees.	The Interest rate declared in relation to the eligible international transaction is not less than the base rate of State Bank of India as on 30th June of the relevant previous year plus 300 basis points.
6.	Providing corporate guarantee referred to in sub-item (a) of item (v) of rule 10TC.	The commission or fee declared in relation to the eligible international transaction is at the rate not less than 2 per cent. per annum on the amount guaranteed.
7.	Providing corporate guarantee referred to in sub-item (b) of item (v) of rule 10TC.	The commission or fee declared in relation to the eligible international transaction is at the rate not less than 1.75 per cent. per annum on the amount guaranteed.
8.	Provision of contract research and development services wholly or partly relating to software development referred to in item (vi) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 30 per cent..
9.	Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs referred to in item (vii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 29 per cent..
10.	Manufacture and export of core auto components referred to in	The operating profit margin declared by the eligible assessee from the eligible

	item (viii) of rule 10TC.	international transaction in relation to operating expense is not less than 12 per cent..
11.	Manufacture and export of non-core auto components referred to in item (ix) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 8.5 per cent..

(3) The provisions of sub-rules (1) and (2) shall apply for the assessment year 2013-14 and four assessment years immediately following that assessment year.

(4) No comparability adjustment and allowance under the second proviso to sub-section (2) of section 92C shall be made to the transfer price declared by the eligible assessee and accepted under sub-rules (1) and (2) above.

(5) The provisions of sections 92D and 92E in respect of an international transaction shall apply irrespective of the fact that the assessee exercises his option for safe harbour in respect of such transaction.

### **10TE. Procedure :-**

(1) For the purposes of exercise of the option for safe harbour, the assessee shall furnish a Form 3CEFA, complete in all respects, to the Assessing Officer on or before the due date specified in Explanation 2 below sub-section (1) of section 139 for furnishing the return of income for -

(i) the relevant assessment year, in case the option is exercised only for that assessment year; or

(ii) the first of the assessment years, in case the option is exercised for more than one assessment year:

Provided that the return of income for the relevant assessment year or the first of the relevant assessment years, as the case may be, is furnished by the assessee on or before the date of furnishing of Form 3CEFA.

(2) The option for safe harbour validly exercised shall continue to remain in force for the period specified in Form 3CEFA or a period of five years whichever is less:

Provided that the assessee shall, in respect of the assessment year or years following the initial assessment year, furnish a statement to the Assessing Officer before furnishing return of income of that year, providing details of eligible transactions, their quantum and the profit margins or the rate of interest or commission shown:

Provided further that an option for safe harbour shall not remain in force in respect of any assessment year following the initial assessment year, if -

(i) the option is held to be invalid for the relevant assessment year by the Transfer Pricing Officer under sub-rule (11) or by the

Commissioner under sub-rule (8) in respect of an objection filed by the assessee against the order of the Transfer Pricing Officer under sub-rule (11), as the case may be; or

(ii) the eligible assessee opts out of the safe harbour, for the relevant assessment year, by furnishing a declaration to that effect, to the Assessing Officer.

(3) On receipt of Form 3CEFA, the Assessing Officer shall verify whether-

(i) the assessee exercising the option is an eligible assessee; and

(ii) the transaction in respect of which the option is exercised is an eligible international transaction,

before the option for safe harbour by the assessee is treated to be validly exercised.

(4) Where the Assessing officer doubts the valid exercise of the option for the safe harbour by an assessee, he shall make a reference to the Transfer Pricing Officer for determination of the eligibility of the assessee or the international transaction or both for the purposes of the safe harbour.

(5) For the purposes of sub-rule (4) and sub-rule (10), the Transfer Pricing Officer may require the assessee, by notice in writing, to furnish such information or documents or other evidence as he may consider necessary, and the assessee shall furnish the same within the time specified in such notice.

(6) Where-

(a) the assessee does not furnish the information or documents or other evidence required by the Transfer Pricing Officer; or

(b) the Transfer Pricing Officer finds that the assessee is not an eligible assessee; or

(c) the Transfer Pricing Officer finds that the international transaction in respect of which the option referred to in sub-rule (1) has been exercised is not an eligible international transaction, the Transfer Pricing Officer shall, by order in writing, declare the option exercised by the assessee under sub-rule (1) to be invalid and cause a copy of the said order to be served on the assessee and the Assessing Officer:

Provided that no order declaring the option exercised by the assessee to be invalid shall be passed without giving an opportunity of being heard to the assessee.

(7) If the assessee objects to the order of the Transfer Pricing Officer under sub-rule (6) or sub-rule (11) declaring the option to be invalid, he may file his objections with the Commissioner, to whom the Transfer Pricing Officer is subordinate, within fifteen days

of receipt of the order of the Transfer Pricing Officer.

(8) On receipt of the objection referred to in sub-rule (7), the Commissioner shall after providing an opportunity of being heard to the assessee pass appropriate orders in respect of the validity or otherwise of the option exercised by the assessee and cause a copy of the said order to be served on the assessee and the Assessing Officer.

(9) In a case where option exercised by the assessee has been held to be valid, the Assessing officer shall proceed to verify whether the transfer price declared by the assessee in respect of the relevant eligible international transactions is in accordance with the circumstances specified in sub-rule (2) of rule 10 TD and, if it is not in accordance with the said circumstances, the Assessing Officer shall adopt the operating profit margin or rate of interest or commission specified in sub-rule (2) of rule 10TD.

(10) Where the facts and circumstances on the basis of which the option exercised by the assessee was held to be valid have changed and the Assessing Officer has reason to doubt the eligibility of an assessee or the international transaction for any assessment year other than the initial Assessment Year falling within the period for which the option was exercised by the assessee, he shall make a reference to the Transfer Pricing Officer for determination of eligibility of the assessee or the international transaction or both for the purpose of safe harbour.

Explanation.- For purposes of this sub-rule the facts and circumstances include:-

(a) functional profile of the assessee in respect of the international transaction;

(b) the risks being undertaken by the assessee;

(c) the substantive contractual conditions governing the role of the assessee in respect of the international transaction;

(d) the conduct of the assessee as referred to in sub-rule (2) or sub-rule (3) of rule 10TB; or

(e) the substantive nature of the international transaction.

(11) The Transfer Pricing Officer on receipt of a reference under sub-rule (10) shall, by an order in writing, determine the validity or otherwise of the option exercised by the assessee for the relevant year after providing an opportunity of being heard to the assessee and cause a copy of the said order to be served on the assessee and the Assessing Officer.

(12) Nothing contained in this rule shall affect the power of the Assessing Officer to make a reference under section 92CA in respect

of international transaction other than the eligible international transaction.

(13) Where no option for safe harbour has been exercised under sub-rule (1) by an eligible assessee in respect of an eligible international transaction entered into by the assessee or the option exercised by the assessee is held to be invalid, the arms length price in relation to such international transaction shall be determined in accordance with the provisions of sections 92C and 92CA without having regard to the profit margin or the rate of interest or commission as specified in sub-rule (2) of rule 10TD.

(14) For the purposes of this rule,-

(i) no reference under sub-rule(4) shall be made by an Assessing Officer after expiry of a period of two months from the end of the month in which Form 3CEFA is received by him;

(ii) no order under sub-rule (6) or sub-rule (11) shall be passed by the Transfer Pricing Officer after expiry of a period of two months from the end of the month in which the reference from the Assessing officer under sub-rule(4) or sub-rule (10), as the case may be, is received by him;

(iii) the order under sub-rule (8) shall be passed by the Commissioner within a period of two months from the end of the month in which the objection filed by the assessee under sub-rule (7) is received by him.

(15) If the Assessing Officer or the Transfer Pricing Officer or the Commissioner, as the case may be, does not make a reference or pass an order, as the case may be, within the time specified in sub-rule (14), then the option for safe harbour exercised by the assessee shall be treated as valid.

#### **10TF. Safe harbour rules not to apply in certain cases :-**

Nothing contained in rules 10TA, 10TB, 10TC, 10TD or rule 10TE shall apply in respect of eligible international transactions entered into with an associated enterprise located in any country or territory notified under section 94A or in a no tax or low tax country or territory.

#### **10TG. Mutual Agreement Procedure not to apply :-**

Where transfer price in relation to an eligible international transaction declared by an eligible assessee is accepted by the income-tax authorities under section 92CB, the assessee shall not be entitled to invoke mutual agreement procedure under an



agreement for avoidance of double taxation entered into with a country or specified territory outside India as referred to in sections 90 or 90A.]

### **10TH. Definitions :-**

For the purposes of this rule and rules 10THA to 10THD,-

(a) "Appropriate Commission" shall have the same meaning as assigned to it in sub-section (4) of section 2 of the Electricity Act, 2003 (36 of 2003);

(b) "Government company" shall have the same meaning as assigned to it in sub-section (45) of section 2 of the Companies Act, 2013 (18 of 2013);

### **10THA. Eligible assessee :-**

The eligible assessee means a person who has exercised a valid option for application of safe harbour rules in accordance with the provisions of rule 10 THC, and is a Government company engaged in the business of generation, transmission or distribution of electricity.

### **10THB. Eligible specified domestic transaction :-**

The "Eligible specified domestic transaction" means a specified domestic transaction undertaken by an eligible assessee and which comprises of :-

- (i) supply of electricity by a generating company; or
- (ii) transmission of electricity; or
- (iii) wheeling of electricity.

### **10THC. Safe Harbour :-**

(1) Where an eligible assessee has entered into an eligible specified domestic transaction in any previous year relevant to an assessment year and the option exercised by the said assessee is treated to be validly exercised under rule 10THD, the transfer price declared by the assessee in respect of such transaction for that assessment year shall be accepted by the income-tax authorities, if it is in accordance with the circumstances as specified in sub-rule (2).

(2) The circumstances referred to in sub-rule (1) in respect of the eligible specified domestic transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in

column (3) of the said Table:-

<b>S. No.</b>	<b>Eligible specified domestic Transaction</b>	<b>Circumstances</b>
<b>1</b>	<b>2</b>	<b>3</b>
1	Supply of electricity, transmission of electricity, wheeling of electricity referred to in item (i), (ii) or (iii) of rule THB, as the case may be.	The tariff in respect of supply of electricity, transmission of electricity, wheeling of electricity, as the case may be, is determined by the Appropriate Commission in accordance with the provisions of the Electricity Act, 2003 (36 of 2003).

(3) No comparability adjustment and allowance under the second proviso to subsection (2) of section 92C shall be made to the transfer price declared by the eligible assessee and accepted under sub-rule (1).

(4) The provisions of sections 92D and 92E in respect of a specified domestic transaction shall apply irrespective of the fact that the assessee exercises his option for safe harbour in respect of such transaction.

#### **10THD. Procedure :-**

(1) For the purposes of exercise of the option for safe harbour, the assessee shall furnish a Form 3CEFB, complete in all respects, to the Assessing Officer on or before the due date specified in Explanation 2 to subsection (1) of section 139 for furnishing the return of income for the relevant assessment year :

Provided that the return of income for the relevant assessment year is furnished by the assessee on or before the date of furnishing of Form 3CEFB:

Provided further that in respect of eligible specified domestic transactions undertaken during the previous year relevant to the assessment year beginning on the 1st day of April, 2013 or beginning on the 1st day of April, 2014, Form 3CEFB can be furnished by the assessee on or before the 31st day of March, 2015.

(2) On receipt of Form 3CEFB, the Assessing Officer shall verify whether-

(i) the assessee exercising the option is an eligible assessee; and  
(ii) the transaction in respect of which the option is exercised is an eligible specified domestic transaction, before the option for safe harbour by the assessee is treated to be validly exercised.

(3) Where the Assessing officer doubts the valid exercise of the option for the safe harbour by an assessee, he may require the assessee, by notice in writing, to furnish such information or documents or other evidence as he may consider necessary, and the assessee shall furnish the same within the time specified in

such notice.

(4) Where-

(a) the assessee does not furnish the information or documents or other evidence required by the Assessing Officer; or

(b) the Assessing Officer finds that the assessee is not an eligible assessee; or

(c) the Assessing Officer finds that the specified domestic transaction in respect of which the option referred to in sub-rule (1) has been exercised is not an eligible specified domestic transaction; or

(d) the tariff is not in accordance with the circumstances specified in sub-rule (2) of rule 10 THC, the Assessing Officer shall, by order in writing, declare the option exercised by the assessee under sub-rule (1) to be invalid and cause a copy of the said order to be served on the assessee:

Provided that no order declaring the option exercised by the assessee to be invalid shall be passed without giving an opportunity of being heard to the assessee.

(5) If the assessee objects to the order of the Assessing Officer under sub-rule (4) declaring the option to be invalid, he may file his objections with the Principal Commissioner or the Commissioner or the Principal Director or the Director, as the case may be, to whom the Assessing Officer is subordinate, within fifteen days of receipt of the order of the Assessing Officer.

(6) On receipt of the objection referred to in sub-rule (5), the Principal Commissioner or the Commissioner or the Principal Director or the Director, as the case may be, shall after providing an opportunity of being heard to the assessee, pass appropriate orders in respect of the validity or otherwise of the option exercised by the assessee and cause a copy of the said order to be served on the assessee and the Assessing Officer.

(7) For the purposes of this rule,-

(i) no order under sub-rule(4) shall be made by an Assessing Officer after expiry of a period of three months from the end of the month in which Form 3CEFB is received by him;

(ii) the order under sub-rule (6) shall be passed by the Principal Commissioner or Commissioner or Principal Director or Director, as the case may be, within a period of two months from the end of the month in which the objection filed by the assessee under sub-rule(5) is received by him.

(8) If the Assessing Officer or the Principal Commissioner or the Commissioner or the Principal Director or the Director, as the case

may be, does not pass an order within the time specified in sub-rule (7), then the option for safe harbour exercised by the assessee shall be treated as valid.]

1. Inserted by the Income-Tax (Xth Amendment) Rules, 2012 vide Notification No. 36/2012 dated 30.08.2012.

2. Inserted by the Income-tax (16th Amendment), Rules, 2013 vide Notification No. 73/2013 Dated 18.09.2013.

3 Inserted by the Income-tax (Third Amendment) Rules, 2015 vide Notification No. 23/2015 dated 14.03.2015.

4. Substituted by the Income-tax (Third Amendment) Rules, 2015 vide Notification No. 23/2015 dated 14.03.2015 for the following :  
- "Every"

5. Substituted by the Income-tax (Third Amendment) Rules, 2015 vide Notification No. 23/2015 dated 14.03.2015 for the following :  
- "shall"

6. Substituted by the Income-tax (Third Amendment) Rules, 2015 vide Notification No. 23/2015 dated 14.03.2015 for the following :  
- "who has entered into a pre-filing consultation as referred to in rule 10H"

7. Substituted by the Income-tax (Fourth Amendment) Rules, 2015 vide Notification No. 33/2015 dated 01.04.2015 for the following :  
-

"Provided that in a case where an application has been filed prior to the 1st day of January, 2015, Form No. 3CEDA along with proof of payment of additional fee may be filed at any time on or before the 31st day of March, 2015 or the date of entering into the agreement whichever is earlier:

Provided further that in a case where an agreement has been entered into before the 1st day of January, 2015, Form No. 3CEDA along with proof of payment of additional fee may be filed at any time on or before the 31st day of March, 2015 and, notwithstanding anything contained in rule 10 Q, the agreement may be revised to provide for rollback provision in the said agreement in accordance with this rule."

### **10U. Chapter X-A not to apply in certain cases :-**

<sup>1</sup>[10U. Chapter X-A not to apply in certain cases.--

(1) The provisions of Chapter X-A shall not apply to-

(a) an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of rupees three crore;

(b) a Foreign Institutional Investor,-  
(i) who is an assessee under the Act;  
(ii) who has not taken benefit of an agreement referred to in section 90 or section 90A as the case may be; and  
(iii) who has invested in listed securities, or unlisted securities, with the prior permission of the competent authority, in accordance with the Securities and Exchange Board of India (Foreign Institutional Investor) Regulations, 1995 and such other regulations as may be applicable, in relation to such investments;  
(c) a person, being a non-resident, in relation to investment made by him by way of offshore derivative instruments or otherwise, directly or indirectly, in a Foreign Institutional Investor;  
(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from transfer of investments made before the 30th day of August, 2010 by such person.

(2) Without prejudice to the provisions of clause (d) of sub-rule (1), the provisions of Chapter X-A shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after the 1st day of April, 2015.

(3) For the purposes of this rule,-

(i) "Foreign Institutional Investor" shall have the same meaning as assigned to it in the Explanation to section 115AD;

(ii) "off shore derivative instrument" shall have the same meaning as assigned to it in the Securities and Exchange Board of India (Foreign Institutional Investor) Regulations, 1995 issued under Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) "Securities and Exchange Board of India" shall have the same meaning as assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iv) "tax benefit" as defined in clause (10) of section 102 and computed in accordance with Chapter X-A shall be with reference to-

(a) sub-clauses (a) to (e) of the said clause, the amount of tax; and

(b) sub-clause (f) of the said clause, the tax that would have been chargeable had the increase in loss referred to therein been the total income.

## **10UA. Determination of consequences of impermissible**

## **avoidance arrangement :-**

For the purposes of sub-section (1) of section 98, where a part of an arrangement is declared to be an impermissible avoidance arrangement, the consequences in relation to tax shall be determined with reference to such part only.

## **10UB. Notice, Forms for reference under section 144BA :-**

(1) For the purposes of sub-section (1) of section 144BA, the Assessing Officer shall, before making a reference to the Commissioner, issue a notice in writing to the assessee seeking objections, if any, to the applicability of provisions of Chapter X-A in his case.

(2) The notice referred to in sub-rule (1) shall contain the following:-

(i) details of the arrangement to which the provisions of Chapter X-A are proposed to be applied;

(ii) the tax benefit arising under the arrangement;

(iii) the basis and reason for considering that the main purpose of the identified arrangement is to obtain tax benefit;

(iv) the basis and the reasons why the arrangement satisfies the condition provided in clause (a), (b), (c) or (d) of sub-section (1) of section 96; and

(v) the list of documents and evidence relied upon in respect of (iii) and (iv) above.

(3) The reference by the Assessing Officer to the Commissioner under sub-section (1) of section 144BA shall be in Form No. 3CEG.

(4) Where the Commissioner is satisfied that the provisions of Chapter X-A are not required to be invoked with reference to an arrangement after considering-

(i) the reference received from the Assessing Officer under sub-section (1) of section 144BA; or

(ii) the reply of the assessee in response to the notice issued under sub-section (2) of section 144BA,

he shall issue directions to the Assessing Officer in Form No. 3CEH.

(5) Before a reference is made by the Commissioner to the Approving Panel under sub-section (4) of section 144BA, he shall record his satisfaction regarding the applicability of the provisions of Chapter X-A in Form No. 3CEI and enclose the same with the reference.

## **10UC. Time limits :-**

- (1) For the purposes of section 144BA,-
- (i) no directions under sub-section (3) of section 144BA shall be issued by the Commissioner after the expiry of one month from the end of the month in which the date of compliance of the notice issued under sub-section (2) of section 144BA falls;
  - (ii) no reference shall be made by the Commissioner to the Approving Panel under sub-section (4) of section 144BA after the expiry of two months from the end of the month in which the final submission of the assessee in response to the notice issued under the sub-section (2) of section 144BA is received;
  - (iii) the Commissioner shall issue directions to the assessing officer in Form No. 3CEH,-
    - (a) in the case referred to in clause (i) of sub-rule (4) of rule 10UB, within a period of one month from the end of month in which the reference is received by him; and
    - (b) in the case referred to in clause (ii) of sub-rule (4) of rule 10UB, within a period of two months from the end of month in which the final submission of the assessee in response to the notice issued under sub-section (2) of section 144BA is received by him.]

1. Inserted by the Income-tax (17th Amendment) Rules, 2013 vide Notification No. 75/2013 dated 23.09.2013 w.e.f. 01.04.2016 for the following : -

**11. Determination of income from transactions with non-residents :-**

<sup>1</sup>11. Determination of income from transactions with non-residents.--  
(Omitted by the I.T. (21st Amendment) Rules, 2001 w.e.f 21.08.2001)

1. (Omitted by the I.T. (21st Amendment) Rules, 2001 w.e.f 21.08.2001) Prior to its omission it stood as under :  
"The profits and gains derived from any business carried on in the manner referred to in section 92 may be determined for the purposes of assessment to income-tax according to rule 10."

**11A. Medical authority for certifying autism, cerebral palsy and multiple disabilities and certificate to be obtained from**

**the medical authority for the purposes of deduction under Section 80DD and Section 80U :-**

<sup>2</sup>[11A. Medical authority for certifying autism, cerebral palsy and multiple disabilities and certificate to be obtained from the medical authority for the purposes of deduction under Section 80DD and Section 80U.--

(1) For the purposes of clause (e) of the Explanation to Sub-section (4) of Section 80DD and clause (d) of the Explanation to Sub-section (2) of Section 80U, the medical authority for certifying autism, cerebral palsy, multiple disabilities, person with disability and severe disability referred to in clauses (a), (c), (h), (j) and (o) of Section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999), shall consist of the following,-

(i) a Neurologist having a degree of Doctor of Medicine (MD) in Neurology (in case of children, a Paediatric Neurologist having an equivalent degree); or

(ii) a Civil Surgeon or Chief Medical Officer in a Government hospital.

(2) For the purposes of Sub-section (4) of Section 80DD and Sub-section (2) of Section 80U, the assessee shall furnish along with the return of income, a copy of the certificate issued by the medical authority,-

(i) in Form No.10-IA, where the person with disability or severe disability is suffering from autism, cerebral palsy or multiple disability; or

(ii) in the form prescribed vide notification No. 16-18/97-NI. 1, dated the 1st June, 2001 published in the Gazette of India, Part I, Section 1, dated the 13th June, 2001 and notification No. 16-18/97-NI. 1, dated the 18th February, 2002 published in the Gazette of India, Part I, Section 1 dated the 27th February, 2002 and notified under the Guidelines for evaluation of various disabilities and procedure for certification, keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), in any other case.

(3) Where the condition of disability is temporary and requires reassessment after a specified period, the certificate shall be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires.;



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11A. Permanent physical disability for purposes of deduction under section 80DD.

For the purposes of section 80DD: -

(i) permanent physical disability shall be regarded as a permanent physical disability if it falls in any one of the categories specified below, namely:-

(a) permanent physical disability of more than 50 per cent in one limb; or

(b) permanent physical disability of more than 60 per cent in two or more limbs; or

(c) permanent deafness with hearing impairment of 71 decibels and above; or

(d) permanent and total loss of voice;

(ii) blindness shall be regarded as a permanent physical disability, if it is incurable and falls in any one of the category specified below, namely:-

All with corrections	
Better eye	Worse eye
(a) 6/60 - 4/60 or Field of vision 110 - 20	3/60 to Nil
(b) 3/60 to 1/60 or Field of vision 100	F.C at 1 foot to Nil
(c) F.C at 1 foot to Nil or Field of vision 100	F.C. at 1 foot to Nil or Field of vision 100
(d) Total absence of sight	Total absence of sight;

(d) Total absence of sight Total absence of sight;

(iii) mental retardation shall be regarded as a mental retardation if intelligence quotient is less than 50 on a test with a mean of 100 and a standard deviation of 15 such as the Wechsle scale.

2. Substituted by Income-tax (18th Amendment) Rules, 2005 vide Notification No. 177/2005 dated 29.06.2005 for the following :-

"111A Certificate to be obtained from the medical authority for the purposes of deduction under section 80DD and section 80 U

1. For the purpose of sub-section (4) of section 80 DD and sub-section (2) of section 80 U, the assessee shall furnish along with the return of income, a copy of the certificate issued by the medical authority in the form prescribed vide information No. 16-18/97-NI.1, dated 1st June, 2001 published in the Gazette of India, Part 1, Section 1 dated the 13th June, 2001 and notification No. 16-18/97-NI.1, dated 18th Febuary, 2002 published in the Gazette of India , Part 1, Section 1 dated the 27th February, 2002 and

notified under the Guidelines for evaluation of various disabilities and procedure for certification, keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).

2. Where the condition of disability is temporary and requires reassessment after a specified period, the certificate shall be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires."

**11AA. Requirements for approval of an institution or fund under section 80G :-**

11AA. <sup>1</sup>[Requirements for approval of an institution or fund under section 80G.--

(1) The application for approval of any institution or fund under clause (vi) of subsection (5) of section 80G shall be in Form No. 10G and shall be made in triplicate.

(2) The application shall be accompanied by the following documents, namely :--

(i) Copy of registration granted under section 12A or copy of notification issued under section 10(23) or 10(23C) ;

(ii) Notes on activities of institution or fund since its inception or during the last three years, whichever is less ;

(iii) Copies of accounts of the institution or fund since its inception or during the last three years, whichever is less.

(3) The Commissioner may call for such further documents or information from the institution or fund or cause such inquiries to be made as he may deem necessary in order to satisfy himself about the genuineness of the activities of such institution or fund.

(4) Where the Commissioner is satisfied that all the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are fulfilled by the institution or fund, he shall record such satisfaction in writing and grant approval to the institution or fund specifying the assessment year or years for which the approval is valid.

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing: Provided that no order of rejection of an application shall be passed without giving the institution or fund an opportunity of being heard.

(6) The time limit within which the Commissioner shall pass an

order either granting the approval or rejecting the application shall not exceed six months from the <sup>2</sup>[end of the month in] which such application was made :

Provided that in computing the period of six months, any time taken by the applicant in not complying with the directions of the Commissioner under sub-rule (3) shall be excluded.]

1. Inserted by the IT (Seventeenth Amendment) Rules, 1992, w.e.f. 21-9-1992.

2. Substituted by the Income-tax (11th Amendment) Rules, 2014 vide Notification No. 61/2014 dated 10.11.2014 for the following :  
- "date on"

### **11B. Conditions for allowance for deduction under section 80GG :-**

11B. <sup>1</sup>[Conditions for allowance for deduction under section 80GG.-  
-

The deduction to be allowed under section 80GG in respect of any expenditure incurred by an assessee towards payment of rent for any furnished or un-furnished accommodation occupied by him for the purposes of his own residence shall be allowed subject to the condition that the assessee files the declaration in Form No. 10BA.]

1. Substituted by the IT (Nineteenth Amendment) Rules, 1998 w.e.f. 13-10-1998. Prior to its substitution, rule 11B , as inserted by the IT (Fourth Amendment) Rules, 1976, w.e.f. 2-4-1976 and amended by the IT (Third Amendment) Rules, 1981, read as under:

"11B. Condition for allowance of deduction under section 80 FF.-  
The deduction to be allowed under section 80GG in respect of any expenditure incurred by an assessee towards payment of rent for any furnished or unfurnished accommodation occupied by him for the purposes of his own residence shall be allowed subject to the condition that the accommodation is situated by any one of the following places, namely:--

(i) Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Calcutta, Coimbatore, Delhi, Faridabad, Gwalior (Lashkar), Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Ludhiana city, Madurai, Nagpur, Patna, Poona, Srinagar, Surat, Vadodara (Baroda) or Varanasi (Banaras) or the urban agglomeration of each of such place; or

(ii) Bombay, Calicut, Cochin, Ghaziabad, Hudbi-Dharwar, Madras, Sholapur, Trivandram or Vishakhapatnam. Explanation: "Urban agglomeration", in relation to a place referred to in this rule, means the area for the time being included in the urban agglomeration of such place for the purpose of grant of house rent allowance by the central Government to its employees under the orders issued by it from time to time in this regard."

**11C. Prescribed fields for the purposes of deduction in respect of remuneration received from foreign employers or Indian concerns under section 80RRA :-**

For the purposes of clause (vi) of Explanation 2 to section 80RRA, the prescribed fields shall be,--

- (a) the profession of actuaries ;
- (b) banking;
- (c) insurance; and
- (d) journalism,

**11D. Permanent physical disabilities for the purposes of deduction under section 80U :-**

<sup>1</sup>[ 11 D. Permanent physical disabilities for the purposes of deduction under section 80U.--

Omitted by the Income-tax (20th Amendment) Rules, 2003 w.e.f 01.04.2003.

1. Prior to its omission, rule 11D, as Substituted by the IT (Third Amendment) Rules, 1992-clauses (i) and (ii) are substituted w.r.e.f. 1-4-1990 and clause (iii) is substituted w.e.f. 1-4-1992 read as under:

For the purposes of section 80U,--

(i) permanent physical disability shall be regarded as a permanent physical disability if it falls in any one of the categories specified below, namely:--

(a) permanent physical disability of more than 50 per cent in one limb; or

(b) permanent physical disability of more than 60 per cent in two or more limbs; or

(c) permanent deafness with hearing impairment of 71 decibels and above; or

(d) permanent and total loss of voice ;

(ii) mental retardation shall be regarded as a mental retardation if intelligence quotient is less than 50 on a test with a mean of 100 and a standard deviation of 15 such as the Wcchsle scale;

(iii) blindness shall be regarded as a permanent physical disability, if it is incurable and falls in any one of the categories specified below, namely:--

Better eye	All with corrections	Worse eye
(a) 6/60 – 4/60 or Field of vision 110 – 20		3/60 to Nil
(b) 3/60 to 1/60 or Field of vision 100		F.C. at 1 Foot to Nil
(c) F.C. at 1 foot to Nil or Field of vision 100		F.C. at 1 foot to Nil or Field of vision 100
(d) Total absence of sight		Total absence of sight;

**11DD. Specified diseases and ailments for the purposes of deduction under section 80DDB :-**

<sup>1</sup>[11DD. Specified diseases and ailments for the purposes of deduction under section 80DDB

(1) For the purposes of section 80DDB, the following shall be the eligible diseases or ailments: -

(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) Hemiballismus
- (g) Aphasia
- (h) Parkinsons Disease

(ii) Malignant Cancers

(iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS)

(iv) Chronic Renal failure

(v) Hematological disorders:

- (i) Hemophilia

(ii) Thalassaemia

(2) The certificate in respect of the diseases or ailments specified in sub-rule (1) shall be issued by the following specialists working in a Government hospital -

(a) for diseases or ailments mentioned in clause (i) of sub-rule (1)- a Neurologist having a Doctorate of Medicine(D.M). degree in Neurology or any equivalent degree, which is recognised by the Medical Council of India;

(b) for diseases or ailments mentioned in clause (ii) of sub-rule (1)- an Oncologist having a Doctorate of Medicine(D.M). degree in Oncology or any equivalent degree which is recognised by the Medical Council of India;

(c) for diseases or ailments mentioned in clause (iv) of sub-rule (1)- a Nephrologist having a Doctorate of Medicine(D.M), degree in Nephrology or a Urologist having an Master of Chirurgiae(M.Ch.) degree in Urology or any equivalent degree, which is recognised by the Medical Council of India;

(d) for diseases or ailments mentioned in clause (v) of sub-rule (1)- a specialist having a Doctorate of Medicine(D.M), degree in Hematology or any equivalent degree, which is recognised by the Medical Council of India.

Provided that where in respect of any diseases or ailments specified in sub-rule (1), no specialist has been specified or where the specialist specified is not posted in the Government hospital in which the patient is receiving the treatment, such certificate, with prior approval of the Head of that hospital, may be issued by any other specialist working full-time in that hospital and having a post-graduate degree in General or Internal Medicine, which is recognised by the Medical Council of India;

(3) The certificate from the prescribed authority to be furnished along with the return of income shall be in Form 10-I.]

1. Substituted by Income-tax (Twenty-Fifth Amendment) Rules, 2003 w.e.f. 01.04.2003

[11DD. Specified diseases and ailments for the purpose of deduction under section 80DDB.

(1) For the purposes of section 80DDB, the specified diseases and ailments shall be as under :--

(i) Neurological diseases

(a) Dementia

(b) Dystonia Musculorum Deformans

(c) Motor Neuron Disease

- (d) Ataxia
- (e) Chorea
- (f) Hemiballismus
- (g) Aphasia
- (h) Parkinsons Disease

Explanation.-- For the purposes of this rule the abovementioned diseases shall be treated as chronic and protracted, if the disability has been certified to be 40% and above.

- (ii) Cancer
- (iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS)
- (iv) Chronic Renal failure

(v) Hemophilia (vi) Thalassaemia

(2) For the purposes of section 80DDB, the prescribed authority shall be any doctor registered with the Indian Medical Association with post-graduate qualifications.

(3) The certificate shall be from the prescribed authority in Form No. 10-L]

**11E. Application for approval of agreement under section 80-O. :-**

<sup>1</sup>11E. Application for approval of agreement under section 80-O. Omitted by the IT (Thirty-second Amendment) Rules, 1999, w.e.f. 19-11-1999.

1 Prior to its omission, rule 11E, as inserted by the IT (Tenth Amendment) Rules, 1988, w.e.f. 1-4-1989, read as under :

"11E. Application for approval of agreement under section 80-O.- The application to the Chief Commissioner or the Director General, as the case may be, under the first proviso the section 80-O for approval of any agreement shall be in Form No. 10F."

**11EA. Guidelines for specifying industrially backward districts for the purpose of deduction under 2[sub-section (5) of section 80-IB] :-**

11EA. <sup>1</sup>[Guidelines for specifying industrially backward districts for the purpose of deduction under <sup>2</sup>[sub-section (5) of section 80-IB].

<sup>3</sup>[(1)] In specifying a district for notification as an industrially backward district <sup>3</sup>[of Category A] under <sup>2</sup>[sub-section (5) of section 80-IB], the Central Government shall satisfy itself that,--

(a) the district has a "Total Weighted Index Count" of 250 or less in the "All India Gradation List" appended in Appendix III of these rules; or

(b) the district is a "no industry" district as indicated in the "All

India Gradation List" mentioned in clause (a); or  
(c) the district is an inaccessible hill area district as indicated in the Eighth Plan Document and has a "Total Weighted Index Count" of 500 or less in the "All India Gradation List" mentioned in clause (a);  
or  
(d) the district has no rail head as on 1-4-1994 and has a "Total Weighted Index Count" of 500 or less in the "All India Gradation List" mentioned in clause (a).

Explanation: A district notified under these rules, shall be based on the districts as they stood in the Census Report of 1991. Where a district notified under these rules, is reorganised, either by split or otherwise, after the Census Report of 1991, all the areas comprised in the district as it existed in the Census Report of 1991 will qualify for the purpose of these rules.

<sup>4</sup>[(2) In specifying a district for notification as an industrially backward district of category B under 5[sub-section (5) of section 80-IB,] the Central Government shall satisfy itself that,--

(a) the district has a "Total Weighted Index Count" of more than 250 but less than or equal to 500 in the "All India Gradation List" as indicated in the "All India Gradation List" mentioned in clause (a) of sub-rule (1):

Provided that no district shall be notified under this sub-rule if such district has been notified under sub-rule (1).]

1 Inserted by the IT (Ninth Amdt.) Rules, 1997, w.r.e.f. 1-10-1994.

2 Substituted for "sub-clause © of clause (iv) of sub-section (2) of section 80-IA" by the IT (Seventeenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

3. Inserted by the IT (Eleventh Amdt.) Rules, 1997, w.r.e.f. 1-10-1994

4 Inserted by the IT (Eleventh Amdt.) Rules, 1997, w.r.e.f. 1-10-1994.

5 Substituted for "sub-clause © fo clause (iv) of sub-section (2) of section 80-IA" by the IT (Seventeenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

**11EE. Form of statement to be furnished under section 115K :-**



<sup>2</sup>11EE. Form of statement to be furnished under section 115K.  
Omitted by the IT (Thirty-second Amendment) Rules, 1999, w.e.f. 19-11-1999.

1 Inserted by the IT (Fourteenth Amendment) Rules, 1992, w.e.f. 2-7-1992.

2 Prior to its omission, rule 11EE,  
"11EE. Form of statement to be furnished under section 115K.-  
(1) The statement which is required to be submitted by any person under the provisions of section 115K shall be in form NO. 4A and shall be verified in the manner indicated therein.  
(2) The form shall be in duplicate and shall also serve as a challan for the payment of tax under the provisions of sub-section (3) of section 115K."

#### **11F. General :-**

In this sub-part "National Committee" means the National Committee defined in section 35AC.

1. Inserted by the IT (First Amdt.) Rules, 1992, w.e.f. 2-1-1992.

#### **11G. Composition of the National Committee :-**

(1) The National Committee shall consist of fourteen members appointed by the Central Government from amongst persons of eminence in public life.

(2) The term of office of a member shall be for three years commencing on the date of notification.

<sup>1</sup>[(3) One of the members of the National Committee shall be appointed as Chairman by the Central Government. In the event of vacancy of the office of Chairman for any reason and until a new Chairman is appointed, no meeting of the National Committee shall be held :

Provided that if for any meeting, the Chairman is absent, the members present for the meeting may elect one amongst themselves to preside over the days sitting.

(4) The National Committee may appoint one or more sub-

committees from among its members for looking into specific areas of activity from time to time. The National Committee may invite any expert to examine any matter of technical nature.

1. Substituted by the IT (Fourth Amdt.) Rules, 1993, w.e.f. 5-3-1993. Prior to its substitution, sub-rule (3), as inserted by the IT (First Amdt.) Rules, 1992, w.e.f. 2-1-1992, read as under: "(3) One of the members of the National Committee shall be appointed as Chairman by the Central Government. In the event of vacancy of the office of Chairman for any reason and until a new Chairman is appointed, any other member may be elected by the National Committee to fill the vacancy. If, for any meeting, the Chairman is absent, the members present for the meeting may elect one amongst themselves to preside over the days sitting."

#### **11H. Headquarters and Secretariat :-**

(1) The headquarters of the National Committee shall be at New Delhi. Its sittings shall take place at New Delhi or such other place as the Central Government may decide.

(2) Secretariat to the Committee will be provided by the Department of Revenue, Ministry of Finance, Government of India and a Joint Secretary to the Government of India, in the Department of Revenue shall act as Secretary to the Committee.

#### **11I. Functions :-**

The functions of the National Committee shall be-

(i) to approve associations and institutions for the purpose of carrying out any eligible project or scheme; and

(ii) to recommend to the Central Government projects and schemes of any company including a public sector company, a local authority or an approved association or institution, for being notified as eligible projects or schemes for the purposes of section 35AC.

#### **11J. Guidelines for approval of associations and institutions :-**

In according approval to any association or institution, the National Committee shall satisfy itself that,--

(i) the association or institution is--

(a) constituted as a public charitable trust; or

(b) registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any

part of India; or

(c) registered under section 25 of the Companies Act, 1956 (1 of 1956);

(ii) persons managing the affairs of the association or institution are persons of proven integrity;

(iii) the activities of the association or institution are open to citizens of India without any distinction of religion, race, caste, sex, place of birth or any of them and are not expressed to be for the benefit of any individual or community;

(iv) the association or institution maintains regular accounts of its receipts and expenditure; and

(v) the instrument under which the association or institution is constituted does not or the rules or regulations governing the association or institution do not contain any provision for the transfer or application, at any time, of the whole or any part of the income or assets of the association or institution for any purpose other than a charitable purpose.

### **11K. Guidelines for recommending projects or schemes :-**

In making recommendations to the Central Government with regard to any project or scheme for being notified in the Official Gazette as an eligible project or scheme, the National Committee shall satisfy itself that,--

(i) the project or scheme relates to the provisions of one or more of the following:--

(a) construction and maintenance of drinking water projects in rural areas and in urban slums including installation of pump-sets, digging of wells, tube-wells and laying of pipes for supply of drinking water;

(b) construction of dwelling units for the economically weaker sections;

(c) construction of school buildings primarily for children belonging to the economically weaker sections of the society;

(d) establishment and running of non-conventional and renewable source of energy systems;

(e) construction and maintenance of bridges, public highways and other roads;

(f) any other programme for uplift of the rural poor or the urban slum dwellers, as the National Committee may consider fit for support;

<sup>1</sup>[(g) promotion of sports;]

**2**[(h) pollution control;]

**3**[(i) establishment and running of educational institutions in rural areas, exclusively for women and children upto 12 years of age;

(j) establishment and running of hospitals and medical facilities in rural areas, exclusively for women and children upto 12 years of age;

(k) establishment and running of creches and schools for the children of workers employed in factories or at building sites;

(l) encouraging the production of bacteria induced fertilisers;

(m) any programme that promotes road safety, prevention of accidents and traffic awareness;]

**4**[(n) construction of hostel accommodation for women or handicapped individuals or individuals who are of the age of sixty-five years or more;]

**5**[(o) establishment and running of institutions for vocational education and training in rural areas or towns which consist of population of less than five lakhs;]

**6**[(p) establishment and running of institutions imparting education in the field of engineering and medicine in rural areas or towns which consists of population of less than 5 lakhs]

**7**[(q) Plantation of softwood on degraded non-forest land;

(r) Any programme of conservation of natural resources or of afforestation;]

**8**[(s) Relief and rehabilitation of handicapped individuals]

(ii) the benefit of the project or scheme shall flow to the public in general or to individuals belonging to the economically weaker sections of the society;

(iii) the applicant has the necessary expertise, personnel and other facilities for efficient implementation of the project or scheme;

(iv) the applicant shall maintain separate accounts in respect of the eligible project or scheme.

1. Inserted by the IT (Seventh Amendment) Rules, 1993, w.e.f. 16-4-1993.

2. Inserted by the IT (Eighth Amendment) Rules, 1994, w.e.f. 12-8-1994.

3. Inserted by the IT (Tenth Amendment) Rules, 1998, w.e.f. 30-7-1998.

4. Inserted by the IT (Seventh Amendment) Rules, 1999, w.e.f. 14-5-1999.

5 Inserted by the IT (Second Amendment) Rules, 2000, w.e.f. 6-4-2000.

6. Inserted by the IT( fourth Amendment) Rules 2001, w.e.f. 4-5-2001.

7. Inserted by the IT( Fifth Amendment) Rules 2002, w.e.f. 1-4-2002.

8. Inserted by the IT (Sixth Amendment) Rules, 2002 w.e.f. 07-05-2002.

**11L. Application for approval of an association or institution or for recommendation of a project or scheme by the National Committee :-**

(1) An application for approval of an association or institution or for recommendation of a project or scheme by the National Committee for the purposes of section 35AC may be made to the Secretary to the National Committee for Promotion of Social and Economic Welfare, Department of Revenue, Government of India, North Block, New Delhi - 110 001.

(2) The application should be submitted in 2 sets, written either in English or Hindi, and should be accompanied with details about the name, address and status of applicant, the district/ward/circle where assessed/registered, permanent account number, audited balance sheet and profit and loss account or income and expenditure account for the latest year for which these are available and two preceding years.

(3) The application for approval of an association or institution should contain the following particulars and be accompanied with relevant documents :--

(i) Name and address of the association or institution;

(ii) How constituted (whether as a trust, society, etc.) supported by relevant documents like trust deed, rules and regulations, memorandum of association, etc., and registration certificate, if any;

(iii) Names and addresses of the persons managing the affairs of the association or institution, including those who had, at any time, during the three years preceding the date of application, managed the affairs of the association or institution;

(iv) If the association or the institution is notified by the Central Government for the purposes of sub-clause (iv) or (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), or is

approved for the purposes of section 80G, the particulars of the approval granted;

<sup>1</sup>[(v) Brief particulars of the activities of the association or institution during three years preceding the date of application :

Provided that when an association or institution has been in existence for a period of less than 3 years, in that case, that association or institution may furnish particulars of its activities for the period of its existence;

(vi) Such other information as the association or institution may like to place before the National Committee.

(4) The application for recommendation of a project or scheme should contain the following particulars and be accompanied with relevant documents,--

(i) Title of project or scheme;

(ii) Date of commencement;

(iii) Duration and the likely date of completion;

(iv) Estimated cost of the project or scheme duly supported by a copy of the resolution of the Managing Committee of the association, institution or the local authority or, as the case may be, the Board of Directors of the company;

(v) Categories or classes of persons who are likely to be benefited from the project or scheme;

(vi) Affirmation that no benefit from the project or scheme, other than remuneration or honorarium for whole time or part-time work done or for reimbursement of actual expenses related to the project will accrue to the persons managing the affairs of the association or institution or to individuals not belonging to the economically weaker sections of the society;

(vii) Where the project or scheme is to be executed by a company, information about whether the project or scheme is such which the company is required to execute under any law for the time being in force or under agreement with employees or otherwise;

(viii) Such other particulars as the applicant may like to place before the National Committee.

1. Substituted by the IT (Fourth Amendment) Rules, 1993, w.e.f. 5-3-1993. Prior to its substitution, clause (v), as inserted by the IT (First Amendment) Rules, 1992, w.e.f. 2-1-1992, read as under:

"(v) Brief Particulars of the activities of the association or institution during three years preceding the date of application;"

**11M. Procedure before the National Committee :-**

(1) All applications under rule 11L should be circulated by the Secretary to the National Committee to all the members of the Committee and will be considered by the National Committee at its sitting held at least seven days after the date on which the application is circulated. In exceptional cases, the Chairman may curtail the period of notice and may also direct consideration of the application by circulation only.

(2) The National Committee may call for such other information from the applicant as it deems necessary for taking a decision on the application and may also direct its Secretary to make or cause to be made enquiries on any matter relating to the application.

(3) The quorum for taking a decision on an application shall be at least five members, including Chairman. If a meeting is adjourned without taking a decision for lack of quorum, the 1[decision to adjourn the meeting] may be taken by the members present, even without the requisite quorum. 2[This decision would be conveyed to the absentee members along with notice about the date, time and place for re-holding the adjourned meeting.]

(4) Approval of an association or institution shall be for such period as the National Committee may decide, generally not exceeding a period of three years at a time. Subsequent approvals, if required, for a further period, can be granted only if the National Committee is satisfied about the activities of the association or institution during the preceding period of approval.

(5) The National Committee shall recommend ordinarily to the Central Government a project or scheme for being notified as an eligible project or scheme for an initial period up to three financial years. If the project or scheme is likely to extend beyond three financial years, the National Committee shall make further recom- mendations for a period of three years at a time after being satisfied that the project or, as the case may be, scheme is being executed properly. For this purpose, the National Committee may monitor the execution of project or scheme and call for such information as it deems necessary. Other provisions.

**11MA. Form of report by an approved association or institution under clause (ii) of sub-section (4) of section 35AC :-**

<sup>3</sup>[11MA. Form of report by an approved association or institution under clause (ii) of sub-section (4) of section 35AC

(1) The report to be furnished by the approved association or institution under clause (ii) of sub-section (4) of section 35AC shall be in Form No. 58C.

(2) The report referred to in sub-rule (1) shall be furnished to the National Committee before the expiry of three months from the end of the financial year.

(3) The National Committee, after receipt of the report referred to in sub-rule (2) may, at any time, undertake to inspect or verify the information furnished by the association or institution.]

**11MAA. Form of report by public sector company or local authority or association or institution, which is carrying out a notified eligible project or scheme, under clause (ii) of sub-section (5) of section 35AC :-**

<sup>3</sup>[11MAA. Form of report by public sector company or local authority or association or institution, which is carrying out a notified eligible project or scheme, under clause (ii) of sub-section (5) of section 35AC

(1) The report to be furnished by a public sector company or local authority or an association or institution in respect of the eligible project or scheme, under clause (ii) of sub-section (5) of section 35AC shall be in Form No. 58D.

(2) The report referred to in sub-rule (1) shall be furnished to the National Committee before the expiry of three months from the end of the financial year.

(3) The National Committee, after receipt of the report referred to in sub-rule (2) may, at any time, undertake to inspect or verify the information furnished by the public sector company or local authority or association or institution.]

**11N. Other provisions :-**

(1) The members of the National Committee shall not be entitled to any remuneration.

<sup>1</sup>[(2) The members and Chairman of the National Committee shall be entitled to--

(i) Sitting fee of Rs. <sup>2</sup>[3000] per day for attending a meeting of the National Committee or any Subordinate Committee set up by the Chairman of the National Committee. However, sitting fee would not be payable where applications are considered by circulation or when a member is on tour.



(ii) Reimbursement of actual expenditure incurred by way of travel by rail, road or air, for attending any meeting of the National Committee or its Subordinate Committee. The entitlement of air travel would be restricted to the amount charged by Indian Airlines for its economy class for the members and to the amount charged for the executive class of the Indian Airlines for the Chairman. Members including Chairman may travel by any class on train. Members and Chairman would also be entitled to the reimbursement of <sup>3</sup>[air conditioned taxi] fare for reaching the venue of the meeting from their place of stay and for going back to the place of stay after the meeting.

<sup>4</sup>[\*\*\*]

(iv) <sup>5</sup>[The out-station Chairman or Member may stay and claim reimbursement of rent in any State guest house or for single room in medium range ITDC hotel like Lodi Hotel, Qutab Hotel, Janpath Hotel, Ashoka Yatri Niwas or State Government run tourist hotels/hostels or residential accommodation provided by registered societies like India international Centre or India Habitat Centre. They would separately be entitled for reimbursement of food allowance at the rate of Rs. 500/- per day.]

(v) Members and Chairman would have the same entitlement for travel, boarding and lodging in respect of tours undertaken in pursuance of a decision taken by the National Committee. However, sitting fee would not be admissible while on tour.

(vi) Sitting fee would not be admissible in case the National Committee takes decisions by circulation of the application alone. Actual postal charges and other expenses incurred by Members and Chairman for circulating the application would be reimbursed.

(vii) Reimbursement of any other expenditure with the approval of Secretary (Revenue) and the Financial Advisor, Department of Revenue, Ministry of Finance.

(3) In granting approval to any project or scheme undertaken by a company, the National Committee shall satisfy itself that, where any expenditure is to be incurred in the acquisition or erection of a capital asset, the applicant-company has made adequate arrangements for divesting itself of the ownership of such asset without consideration in cash or otherwise immediately on completion of the eligible project, in the following manner :--

(i) in the case of drinking water projects, to individuals belonging to the economically weaker sections or to the local authority or the village panchayat, as the case may be;

(ii) in the case of dwelling units, to individuals belonging to the

economically weaker sections, or to the local authority, village panchayat or an authority constituted under any law for the purpose of satisfying the need for housing accommodation or for the purpose of development or improvement of cities, towns and villages, as the National Committee may decide;

(iii) in the case of school buildings, to an educational institution existing solely for educational purposes and not for profit or to the State Government, local authority or a village panchayat;

(iv) in the case of non-conventional or renewable energy systems, to the district administration, local authority, village panchayat or to individuals belonging to the economically weaker sections, or such other statutory body as the National Committee may decide;

(v) in the case of bridges, public highways or other roads to the Central or the State Government, local authority or such other statutory body as the National Committee may decide;

(vi) in the case of equipment purchased for the purpose of eligible project or scheme, to the State Government, local authority or such other statutory body as the National Committee may decide having regard to the capacity of the authority concerned to gainfully utilise such equipments;

Note : Where before the completion of any eligible project/scheme, the company undertakes other eligible project(s)/scheme(s) and transfers the equipments to such subsequent project/scheme, the company will be required to divest itself of the ownership of the equipment only after the completion of the last eligible project/scheme,

(vii) in any other case, to such authority as the National Committee may decide.

(4) Immediately on completion of an eligible project/scheme, the company shall furnish details of the execution thereof to the National Committee. The National Committee shall satisfy itself that the project/scheme has been completed in accordance with the approval granted and that the company has divested itself of the assets in the manner prescribed by the National Committee. If the National Committee is not so satisfied, it may, after giving an opportunity of being heard on the proposed action, order withdrawal of the approval which shall then be deemed never to have been granted.

—

1 Substituted, by the IT (Second Amendment) Rules, 1995, w.e.f.

17-2-1995, for the following :-

"(2) The members may be paid sitting fee up to Rs. 250 for each meeting of the National Committee attended by a member. In addition, they shall be entitled to reimbursement of actual cost of travel by air, rail or road as well as actual cost of boarding and local transport subject to the limits provided by the Central Government in respect of such expenditure by members of High Level Committee."

2. Substituted by the Income-tax (Twelfth Amendment) Rules, 2009 vide Notification No. 65/2009 dated 02.09.2009 for the figure:- "3000"

3. Substituted by the Income-tax (Twelfth Amendment) Rules, 2009 vide Notification No. 65/2009 dated 02.09.2009 for the word:- "taxi"

4. Omitted by the Income-tax (Twelfth Amendment) Rules, 2009 vide Notification No. 65/2009 dated 02.09.2009 for the following :

-

"(iii) Daily allowance for out-station members would be admissible in accordance with the following Table :

<b>A</b>	<b>B</b>	<b>C</b>
<b>City or Locality</b>	<b>Stay in hotel and/or other Establishment providing boardingand/or lodging at at scheduled tariff</b>	<b>Does not stay in hotel or makes own arrangement</b>
	<b>(Rs.)</b>	<b>(Rs.)</b>
I. 'A' Class Cities/Specially Expensive Localities		
(i) Cities	265	106
(1) Ahmedabad U.A.		
(2) Bangalore U.A.		
(3) Calcutta U.A.		
(4) Delhi U.A.		
(5) Greater Bombay U.A.		
(6) Haderabad U.A.		
(7) Kanpur U.A.		
(8) Madras U.A.		
(9) Pune U.A.		
(ii) Localities		

- (1) Darjeeling District (except Siliguri Sub-division)
- (2) Darjeeling Town
- (3) NEFA areas beyond Inner Line
- (4) Naga Hills Tuensang area beyond the Inner Line
- (5) The following expensive/remote localities of Himachal Pradesh:--
  1. Lahaul and Spiti District;
  2. Kinnaur District;
  3. Barmour sub-division and Pangi Sub-division of Chamba District;
  4. Paragana of Pandrahbis; Outer Seraj and Malana Panchayat area of Kulu District;
  5. Chhuhar Valley of Jogindernagar Tehsil of Mandi District;
  6. Mangal Panchayat area of Solan District;
  7. Dodrakwar area of Rohru Tehsil; Paraganas of Chhebis, Naubis, Barabis, Pandrahbis and Atharahbis; Sarahan and Gram Panchayats of Munish, Darkali and Kashpet of Rampur Tehsil of Simla District; and
  8. Chhota Bhangal and Bara Bhangal Areas of Palampur Sub-division of Kangra District;
- (6) The following hill areas in Manipur which do not fall on the National Highway :--
  1. Ukhrul
  2. Churachandpur
  3. Tamenlong
  4. Jiribam
  5. Mao Maram
  6. Tengnampal

II. 'B-1' Class Cities/Expensive Localities		
(i) Cities	225	85
(1) Coimbatore U.A.		
(2) Indore City U.A.		
(3) Jaipur U.A.		
(4) Lucknow U.A.		
(5) Madurai U.A.		
(6) Nagpur U.A.		
(7) Patna U.A.		
(8) Surat U.A.		
(ii) Expensive Localities		
(1) The Following areas of Himachal Pradesh		
1. Simla;		
2. Janjehli Block of Chachoit Tehsil of Mandi District;		
3. Chopal Tehsil of Simla District;		
4. Trans-Giri Tract of Sirmur District;		
5. Churach Tehsil, Salooni Tehsil, Kunr Panchayat and Belej Paragana of Chamba Tehsil of Chamba District;		
6. Manali-Ujhi area, Parvati and Lagg Valley and Banjar Block of Kulu District;		
(2) The whole of Jammu and Kashmir;		
(3) Andaman and Nicobar Islands:		

(4) The entire territory of the Laccadive, Minicoy and Amindivi Islands		
(iii) Other cases	205	78"

5. Substituted by the Income-tax (Twelfth Amendment) Rules, 2009 vide Notification No. 65/2009 dated 02.09.2009 for the following:-

"At the option of the Chairman or Member, in lieu of daily allowance mentioned in item (iii) above, the out-station Chairman or Member may opt to stay and claim reimbursement of rent in any State guest house or for single room in medium range ITDC hotel like Lodi Hotel, Qutab Hotel, Janpath Hotel, Ashoka Yatri Niwas or State Government run tourist hotels/hostels or residential accommodation provided by registered societies like India International Centre or India Habitat Centre. In this situation the daily allowance would be restricted to Rs. 72, Rs. 57 or Rs. 53 for the A Class, B-1 Class and other cities or localities respectively mentioned in item (iii) above."

**110. Certificate of payment or expenditure in respect of eligible projects or schemes notified under section 35AC :-**

11-O. <sup>1</sup>[Certificate of payment or expenditure in respect of eligible projects or schemes notified under section 35AC.

(1) The certificate referred to in clause (a) of sub-section (2) of section 35AC shall be in Form No. 58A.

(2) The certificate referred to in clause (b) of sub-section (2) of section 35AC shall be in Form No. 56B.

(3) Every public sector company or a local authority or an association or institution, as the case may be, who issues a certificate referred to in sub-rule (1) or sub-rule (2) shall, in respect of the 31st March in each financial year, deliver or cause to be delivered to the Secretary, National Committee, an annual report indicating the progress of work relating to the project/scheme during the year as well as the following information (please specify the information in respect of each contributor separately):--

(i) Names of the contributors and their addresses.

(ii) Permanent Account Number/G.I.R. Number of the contributors,

(iii) Amount(s) of contribution. (iv) The project/scheme for which contribution was made.

(v) Total amount of contribution received during the previous year.

(vi) Total cost of the project approved by the National Committee (with date of Committee's approval).

(4) Every public sector company or a local authority or an association or institution, as the case may be, who issues a certificate referred to in sub-rule (1) or sub-rule (2) shall send an annual statement of donation received and the details of the

project to the National Committee and to each contributor by 30th June, following the financial year in which the amounts are received.]

1. Inserted by the IT (Second Amendment) Rules, 1993, w.e.f. 24-2-1993.

**110A. Guidelines for notification of affordable housing project as specified business under section 35AD :-**

1[11-OA Guidelines for notification of affordable housing project as specified business under section 35AD.-

(1) The form and manner in respect of notification of an affordable housing project as a specified business under sub-clause (vii) of clause (c) of sub-section (8) of section 35AD of the Act shall be as follows:-

(a) the applicant shall apply for notification of the project in Form No. 3CN to Member (IT), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi;

(b) if any defect is noticed in the application in Form No. 3CN or if any relevant document is not attached thereto, a deficiency letter may be served on the applicant;

(c) the applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended;

(d) if the applicant fails to remove the deficiency within the period so allowed, the Board, if satisfied, may pass an order treating the application as invalid;

(e) the Board may, before granting approval, call for such documents or information from the applicant as it may consider necessary and may call for further details or information from the applicant as well as from the income-tax authorities and other Departments or agencies, as it may deem fit;

(f) the Board may issue the notification to be published in the Official Gazette granting approval to the project or for reasons to be recorded in writing, reject the application;

(g) the Board may withdraw the approval if it is satisfied that the assessee has ceased its activities relating to the specified business

or its activities are not genuine or are not being carried out in accordance with all or any of the conditions under this rule;

(h) no order treating the application as invalid or rejecting the application or withdrawing the approval or cancellation of the notification, shall be passed without giving an opportunity of being heard to the assessee;

(i) a copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant as well as the Assessing Officer and the Commissioner having jurisdiction over the assessee.

(2) A project shall be considered for notification if it fulfils all of the following conditions, namely: -

(a) the project shall have prior sanction of the competent authority empowered under the Scheme of Affordable Housing in Partnership framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;

(b) the date of commencement of operations of the project shall be on or after the 1st day of April 2011;

(c) the project shall be on a plot of land which has a minimum area of one acre;

(d) at least thirty per cent, of the total allocable rentable area of the project shall comprise of affordable housing units of EWS category;

(e) at least sixty per cent of the total allocable rentable area of the project shall comprise of affordable housing units of EWS and LIG categories;

(f) at least ninety per cent of the total allocable rentable area of the project shall comprise of affordable housing units of EWS, LIG and MIG categories;

(g) the remaining ten per cent or less of the total allocable rentable area of the project may comprise of other residential or commercial units;

(h) the layout and specifications including design of the project to be developed and built shall be approved by the State or Union territory Government or its designated implementing agency;

(i) the project shall be completed within a period of five years from the end of the financial year in which the project is sanctioned by the competent authority empowered under the Scheme of Affordable Housing in Partnership framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India.

(3) The assessee shall maintain separate book of accounts for the project with complete details of all capital expenditure incurred

during the previous year on which it intends to claim the said deduction under section 35AD and shall file the relevant income tax returns in the due date to the Income Tax Department to avail the tax benefit under section 35AD.

(4) A project notified under sub-clause (vii) of clause (c) of sub-section (8) of section 35AD shall continue to be governed by the provisions of this rule to the extent it is not in contravention with the provisions of the Act, as amended from time to time.

(5) In this rule,-

(a) "affordable housing units" shall be of the following categories:-

Category	Rentable Area (in square metres)	
	Specified cities	Other cities
Economically Weaker Section (EWS)	Up to 25	Up to 30
Lower Income Group (LIG)	Greater than 25 and up to 50	Greater than 30 and up to 60
Middle Income Group (MIG)	Greater than 50 and up to 70	Greater than 60 and up to 85

(b) "date of commencement of operations" means the date on which the project is sanctioned by the competent authority empowered under the Scheme of Affordable Housing in Partnership framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;

(c) "housing unit" means an independent residential unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building -

(i) directly accessible from an outer door or through an interior door in a shared hallway and not by walking through another households living space and

(ii) excluding any shared dining areas;

(d) "project" means an affordable housing project;

(e) "rentable area" means the carpet area at any floor level, including the carpet area of kitchen, pantry, store, lavatory, bathroom, fifty per cent of unglazed verandah and hundred per cent of glazed verandah, in accordance with the provisions of the Indian Standard - Method of Measurement of Plinth, Carpet and rentable Areas of Buildings, IS 3861 : 2002, formulated and published by the Bureau of Indian Standards;

(f) "specified cities" shall mean the following-

(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;

Explanation.-For the purposes of this clause,-



the area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the latest census;

(g) "total allocable rentable area" means the total rentable area of all the proposed housing units or non-housing units but excluding the areas earmarked for common facilities and services.]

1. Inserted by the Income-tax (First Amendment) Rules, 2012 vide Notification No. 01/2012 dated 02.01.2012.

**11OB. Guidelines for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD :-**

<sup>1</sup>[11-OB. Guidelines for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD.--

( 1 ) The notification of a semiconductor wafer fabrication manufacturing unit as a specified business under sub-clause (xiii) of clause (c) of sub-section (8) of section 35AD of the Act shall be in accordance with the following procedure, namely:-

(a) the applicant shall apply for notification of the unit in Form No. 3CS to Member(Income-tax), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi;

(b) the Board shall serve a deficiency letter on the applicant if any defect is noticed in the application in Form No. 3CS or if any relevant document is not attached thereto;

(c) the applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended;

(d) if the applicant fails to remove the deficiency within the period so allowed, the Board, if satisfied, may pass an order treating the application as invalid;

(e) the Board may call for such documents or information from the applicant as it may consider necessary and may call for further details or information from the applicant as well as from the income-tax authorities and other Departments or agencies, as it may deem fit;

(f) the Board may, after considering the application and the documents or the information referred to in clause (e), either issue the notification to be published in the Official Gazette granting approval to the unit or for reasons to be recorded in writing reject the application.

- (g) The Board may, withdraw the approval if it is satisfied that:--
- (i) the assessee has ceased its activities relating to the specified business; or
  - (ii) such activities are not genuine or are not being carried out in accordance with all or any of the conditions under section 35AD or under this rule; or
  - (iii) the approval granted by the competent authority on the recommendations of the Appraisal Committee under the Modified Special Incentive Package Scheme of the Department of Electronics and Information Technology has been withdrawn.
- (h) no order treating the application as invalid or rejecting the application or withdrawing the approval or cancellation of the notification, shall be passed without giving an opportunity of being heard to the assessee;
- (i) a copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant and the Assessing Officer and the Commissioner having jurisdiction over the assessee.
- (2) A unit shall be considered for notification if it fulfils all of the following conditions, namely:--
- (a) the unit shall be exclusively for the manufacture of semiconductor wafer fabrications;
  - (b) the unit shall have prior approval of the competent authority on the recommendations of Appraisal Committee under the Modified Special Incentive Package Scheme notified by the Department of Electronics and Information Technology, Ministry of Communications and Information Technology, Government of India;
  - (c) the date of commencement of operations of the unit shall be on or after the 1st day of April 2014;
  - (d) the unit may have one or more manufacturing facilities and all the facilities shall be located in India;
- (3) The assessee shall maintain separate books of accounts for the unit with complete details of all capital expenditure incurred during the previous year on which it intends to claim the said deduction under section 35AD and shall file the relevant income-tax returns by the due date to the Income-tax Department to avail the tax benefit under section 35AD.
- (4) A unit notified under sub-clause (xiii) of clause (c) of sub-section (8) of section 35AD shall continue to be governed by the provisions of this rule to the extent it is not in contravention with the provisions of the Act, as amended from time to time,

(5) In this rule and the Form,-

(a) "competent authority" means the authority approving the unit under the Modified Special Incentive Package Scheme notified by the Government of India, Ministry of Communications and Information Technology, Department of Electronics and Information Technology;

(b) "date of commencement of operations" means the date on which the commercial production of the unit commences;

(c) "semiconductor wafer fabrications" means integrated circuits which are covered in the National Industrial Classification, 2008 under Division 26; Group 261; Class 2610; Sub class 26103;

(d) "Unit" means manufacturing facility for semiconductor wafer fabrications;]

1. Inserted by the Income-tax (14th Amendment) Rules, 2014 vide Notification No. 80/2014 dated 12.12.2014.

**11P. Application for exercising or renewing the option for tonnage tax scheme :-**

<sup>1</sup>[11P. Application for exercising or renewing the option for tonnage tax scheme.--

An application under sub-section (1) of section 115VP for exercising an option for the tonnage tax scheme or under sub-section (1) of section 115VR for renewing the option for the tonnage tax scheme, as the case may be, shall be made in Form No. 65 and shall be verified in the manner provided therein.]

1. Inserted by Notification No SO1067(E) dated 29.09.2004.

**11Q. Computation of deemed tonnage :-**

<sup>1</sup>[11 Q. Computation of deemed tonnage.--

(1) For the purpose of the Explanation to sub-section (4) of section 115VG, deemed tonnage in respect of an arrangement of purchase of slots and slot charter shall be computed (illustrative formula given in Note 3 appearing after the corresponding form No. 66) on the following basis:

2.5 TEU = 1 Net Tonnage (1 NT) where TEU is Twenty foot Equivalent Unit (Container of this size)

(2) Computation of deemed tonnage (illustrative formula given in Note 4 appearing after the corresponding form No. 66) in respect of an arrangement of sharing of break-bulk vessel shall be made on the following basis:

(i) in case where cargo is restricted by volume : 19 cubic meter (cbm) = 1 net tonnage (1 NT) and

(ii) in case where Cargo is restricted by weight 14 metric tons = 1 net tonnage (1 NT)]

1. Inserted by the IT ((Eighth Amendment) Rules, 2005 w.e.f. 01.04.2005.

**11R. Incidental activities for purposes of relevant shipping income :-**

<sup>1</sup>[11 R. Incidental activities for purposes of relevant shipping income

The incidental activities (details given in Note 5 appearing after the corresponding form No. 66) referred to in sub-section (5) of section 115V-I shall be the following, namely:-

(i) maritime consultancy charges;

(ii) income from loading or unloading of cargo;

(iii) ship management fees or remuneration received for managed vessels; and

(iv) maritime education or recruitment fees.]

1. Inserted by the IT ((Eighth Amendment) Rules, 2005 w.e.f. 01.04.2005.

**11S. Computation of average of net tonnage for charter-in of tonnage :-**

<sup>1</sup>[11 S. Computation of average of net tonnage for charter-in of tonnage.--

The limit for charter-in of tonnage of the qualifying ships referred to in section 115 VV (to be worked out according to the illustration explained in Note 6 appearing after the corresponding form No. 66) during any previous year shall be computed by dividing the total

number of chartered-in ton days by the total number of ton days operated by the company.]

1. Inserted by the IT ((Eighth Amendment) Rules, 2005 w.e.f. 01.04.2005.

**11T. Form of report of an accountant under clause (ii) of section 115VW :-**

<sup>1</sup>[11 T. Form of report of an accountant under clause (ii) of section 115VW.--

The report of audit of accounts of a qualified company which is required to be furnished under clause (ii) of section 115VW shall be in Form No.66.;

1. Inserted by the IT ((Eighth Amendment) Rules, 2005 w.e.f. 01.04.2005.

**11U. Meaning of expressions used in determination of fair market value :-**

<sup>1</sup>[11U. Meaning of expressions used in determination of fair market value.--

For the proposes of this rule and rule 11UA,

<sup>2</sup>[(a) "accountant",-

(i) for the purposes of sub-rule (2) of rule 11UA, means a fellow of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) who is not appointed by the company as an auditor under Section 44AB of the Act or under Section 224 of the Companies Act, 1956 (1 of 1956); and

(ii) in any other case, shall have the same meaning as assigned to it in the Explanation below sub-section (2) of section 288 of the Act;

(b) "balance-sheet", in relation to any company, means,-

(i) for the purposes of sub-rule (2) of rule 11UA, the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date which has been audited by the auditor of the company appointed under

section 224 of the Companies Act, 1956 (1 of 1956) and where the balance-sheet on the valuation date is not drawn up, the balance-sheet (including the notes annexed thereto and forming part of the accounts) drawn up as on a date immediately preceding the valuation date which has been approved and adopted in the annual general meeting of the shareholders of the company; and

(ii) in any other case, the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date which has been audited by the auditor appointed under section 224 of the Companies Act, 1956 (1 of 1956);]

(c) "merchant banker" means category I merchant banker registered with Security and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(d) "quoted shares or securities" in relation to share or securities means a share or security quoted on any recognized sk exchange with regularity from time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business;

(e) "recognized sk exchange" shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(f) "registered dealer" means a dealer who is registered under Central Sale-tax Act, 1956 or General Sales-tax Law for the time being in force in any State including value added tax laws;

(g) "registered valuer" shall have the same meaning as assigned to it in section 34AB of the Wealth Tax Act, 1957(27 of 1957) read with rule 8A of wealth-tax Rules, 1957;

(h) "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(i) "unquoted shares and securities", in relation to shares or securities, means shares and securities which is not a quoted shares or securities;

<sup>3</sup>[(j) "valuation date" means the date on which the property or consideration, as the case may be, is received by the assessee.]

### **11UA. Determination of Fair Market Value :-**

<sup>4</sup>[(1)] For the purposes of section 56 of the Act, the fair market value of a property, other than immovable property, shall be

determined in the following manner, namely,

(a) valuation of Jewellery.-

(i) the fair market value of jewellery shall be estimated to be the price which such jewellery would fetch if sold in the open market on the valuation date;

(ii) in case the jewellery is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the jewellery shall be the fair market value;

(iii) In case the jewellery is received by any other mode and the value of the jewellery exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date;

( b ) valuation of archeological collections, drawings, paintings, sculptures or any work of art.

(i) the fair market value of archeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred as artistic work) shall be estimated to be price which it would fetch if sold in the open market on the valuation date;

(ii) in case the artistic work is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the artistic work shall be the fair market value;

(iii) in case the artistic work is received by any other mode and the value of the artistic work exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date;

(c) valuation of shares and securities.-

(a) the fair market value of quoted shares and securities shall be determined in the following manner, namely;

(i) if the quoted shares and securities are received by way of transaction carried out through any recognized sk exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such sk exchange;

(ii) if such quoted shares and securities are received by way of transaction carried out other than through any recognized sk exchange, the fair market value of such shares and securities shall be,

(a) the lowest price of such shares and securities quoted on any recognized sk exchange on the valuation date, and

(b) the lowest price of such shares and securities on any recognized sk exchange on a date immediately preceding the valuation date when such shares and securities were traded on such sk exchange,

in cases where on the valuation date there is no trading in such shares and securities on any recognized sk exchange;

<sup>5</sup>[(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner, namely:--

the fair market value of unquoted equity shares =	(A - L)	x (PV),
	(PE)	

where,

A = book value of the assets in the balance-sheet as reduced by any amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the Income-tax Act and any amount shown in the balance-sheet as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

L = book value of liabilities shown in the balance-sheet, but not including the following amounts, namely:--

- (i) the paid-up capital in respect of equity shares;
  - (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
  - (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
  - (iv) any amount representing provision for taxation, other than amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
  - (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
  - (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;
- PE = total amount of paid up equity share capital as shown in the balance-sheet;  
 PV = the paid up value of such equity shares;]

(c) the fair market value of unquoted shares and securities other than equity shares in a company which are not listed in any recognized sk exchange shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.]

<sup>6</sup>[(2) Notwithstanding anything contained in sub-clause (b) of clause (c) of sub-rule (1), the fair market value of unquoted equity shares for the purposes of sub-clause (i) of clause (a) of Explanation to clause (viib) of sub-section (2) of section 56 shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner under clause (a) or clause (b), at the option of the assessee, namely:--

(a) the fair market value of unquoted equity shares =	(A - L)	x (PV),
	(PE)	

where,

A = book value of the assets in the balance-sheet as reduced by any amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the Income-tax Act and any amount shown in the balance-sheet as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

L = book value of liabilities shown in the balance-sheet, but not including the following amounts, namely:--



(i) the paid-up capital in respect of equity shares;  
(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;  
(iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;  
(iv) any amount representing provision for taxation, other than amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund as refund under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;  
(v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;  
(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;  
PE = total amount of paid up equity share capital as shown in the balance-sheet;  
PV = the paid up value of such equity shares; or  
(b) the fair market value of the unquoted equity shares determined by a merchant banker or an accountant as per the Discounted Free Cash Flow method.]  
1. Inserted by the Income-tax (Second Amendment) Rules, 2010 w.e.f. 01.10.2009.

2. Substituted by the Income-tax (Second Amendment) Rules, 2010 for the following : -

(a) "accountant" shall have the same meaning as assigned in the Explanation to section 288 of the Act;  
(b) "balance-sheet", in relation to any company, means the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date;

3. Substituted by the Income-tax (Second Amendment) Rules, 2010 for the following :-

(j) "valuation date" means the date on which the respective property is received by the assessee.

4. Re-numbered by the Income-tax (Second Amendment) Rules, 2010 for the following : -

5. Substituted by the Income-tax (Second Amendment) Rules, 2010 for the following : -

(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner namely;

The fair market value of unquoted equity shares =  $(A-L) / (PE) * (PV)$

Where, A= Book value of the assets in Balance Sheet as reduced by any amount paid as advance tax under the Income-tax Act and any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset.

L= Book value of liabilities shown in the Balance Sheet but not including the following amounts:-

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
- (iii) reserves, by whatever name called, other than those set apart towards depreciation;
- (iv) credit balance of the profit and loss account;
- (v) any amount representing provision for taxation, other than amount paid as advance tax under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (vi) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vii) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

PE = Total amount of paid up equity share capital as shown in Balance Sheet.

PV = the paid up value of such equity shares.

6. Inserted by the Income-tax (Second Amendment) Rules, 2010 for the following : -

### **PART 3 ASSESSMENT PROCEDURE**

#### **12. [Return of income. :-**

<sup>12</sup>[(1) The return of income required to be furnished under sub-section (1), <sup>3</sup>[or proviso to sub-section (1)], or sub-section (2)<sup>4</sup>, or sub-section (3), or sub-section (4A), <sup>5</sup>[or sub-section (4B)] of section 139 <sup>6</sup>[or clause (i) of sub-section (1) of section 142] shall,

(a) in the case of a company [not being a company to which clause (c) applies], be in Form No. 1 and be verified in the manner indicated therein;

{b) in the case of a person [not being a company to which clause (a) applies, and not being a person to whom clause (c) applies]

<sup>7</sup>(i) where the total income includes any income chargeable to income-tax under the head "Profits and gains of business or profession", be in Form No. 2 and be verified in the manner indicated therein;

<sup>8</sup>[ ]

(ii) <sup>9</sup>[\*\*\*]

<sup>10</sup>[(iii) where the total income does not include any income chargeable to income-tax under the head "Profits and gains of business or profession" be in Form No. 3 and be verified in the

manner indicated therein .]

**11**[Provided that the assessee to whom clause (b) applies shall also have the option of filing the return in Form No. 2D SARAL;]

(c) in the case of a person [including a company whether or not registered under section 25 **12**of the Companies Act, 1956 (1 of 1956)], in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes, or in part only for such purposes, who claims exemption under section 11, be in Form No. 3A and be verified in the manner indicated therein;]

**13**[(d) in the case of a person required to file a return under proviso to subsection (1) of section 139, be in Form No. 2C and verified in the manner prescribed therein.]

**14** [(1A) The return setting forth the total income including the undisclosed income for the block period required to be furnished under clause (a) of section 158BC shall be in Form No. 2B and be verified in the manner indicated therein.]

(2) Notwithstanding anything contained in sub-rule (1),

(a) where a return of income relates to the assessment year commencing on the 1st day of April, 1961, or any earlier assessment year, it shall be furnished in the appropriate form prescribed in rule 19 of the Indian Incometax Rules, 1922, and shall be verified in the manner indicated therein;

(b) where a return of income relates to the assessment year commencing on the 1st day of April, 1962, or the 1st day of April, 1963, or the 1st day of April, 1964, it shall be furnished in the appropriate form in force immediately before the 1st day of April, 1967, and shall be verified in the manner indicated therein.]

1. Substituted by the IT (Second Amdt.) Rules, 1967. Prior to its substitution original rule 12 was amended by the IT (Amdt.) Rules, 1962 and IT (Third Amdt.) Rules, 1964.

2. Substituted by the IT (Second Amdt.) Rules, 1972. Prior to its substitution sub-rule (1) was first amended by the IT (Amdt.) Rules, 1968 and later substituted by the IT (Amdt.) Rules, 1971. A return which is not verified is invalid and is no return in the eyes of law - CIT v. Dr. Krishan Lal Goyal[1984] 148 ITR 283 (Punj. and Har.). A return filed in the wrong form is not a nullity - Dhampur Sugar Mills Ltd. v. CIT[1973]90 ITR 236 (All.). See also Circular No. 792, dated 21-6-2000. Filing of provisional accounts will render the return invalid - V.P. Rajya Vidyut Utpadan Nigam Ltd.v.Dy. C/7I1993] 202 ITR 93 (All.).Where due date falls on a holiday, return can be filed on the next day on which office is openCircular No. 639, dated 13-11-1992. Reconstituted firm or its partners

cannot be debarred from filing voluntary return - Madan Mohan Paul v. CIT[1994] 75 Taxman 368 (AIL). Voluntary return can be filed even after issue of reassessment notice -Burdwan Wholesale ConsumersCo-op. Society Ltd.v.CIT[1991] 191 ITR 570 (Cal.)/Satyanarayan Bhalotia v. CIR[1994] 207 ITR 1030 (Cal.). Commission which goes to the root of the matter will invalidate the return - CIT v. S.P. Viz Construction Co. [1987] 165 ITR 732 (Pat.). Prescribing different due dates for companies and other assesseees does not violate article 14 of the Constitution.N. Vinodkumar and Co. v. Union of India[1999] 237 ITR 502 (Kar.). For details, see Taxmanns Master Guide to Income-tax Rules.

3. Inserted by the IT (Eighth Amdt.) Rules, 1997, w.e.f. 27-6-1997, as corrected by Notification No. SO 870(E), dated 15-12-1997.

4. Sub-section (2) of section 139 was omitted by the Direct Tax Laws (Amdt.) Act, 1987, w.e.f. 1-4-1989.

5. Inserted by the IT (Second Amdt.) Rules, 1979, w.e.f. 1-4-1979.

6. Inserted by the IT (Eighth Amdt.) Rules, 1991, w.r.e.f. 1-4-1989.

7. A return in Form No. 2 which is not accompanied by statements of accounts and the particulars required in Part VI is no valid return - CIT v. S.P. Viz. Construction Co. [1987] 165 ITR 732 (Pat.). [See also contrary view taken in Dhampur Sugar Mills Ltd. v. CIT[1973] 90 ITR 236 (All.).] For details, see Taxmanns Master Guide to Income-tax Rules.

8. Proviso omitted by the IT (Amdt.) Rules, 1981, w.e.f. 1-4-1981. Original proviso was inserted by the IT (Fifth Amdt.) Rules, 1976, w.e.f. 21-6-1976. "Now first proviso.

9. Omitted by the IT (Tenth Amdt.) Rules, 2001, w.e.f. 2-7-2001. Prior to its omission, sub-clause (iii), as substituted by the IT (Amdt.) Rules, 1976, w.e.f. 1-4-1976, omitted by the IT (Amdt.) Rules, 1981, w.e.f. 1-4-1981, re-introduced by the IT (Third Amdt.) Rules, 1994, w.e.f. 1-6-1994; later on substituted by the IT (Fourth Amdt.) Rules, 1995, w.e.f. 1-6-1995 and further amended by the IT (Fourth Amdt.) Rules, 1998, w.e.f. 1-4-1998, read as under : (ii) where, in the case of an individual or a Hindu undivided family, resident in India, the total income (A) does not exceed two lakh rupees; (B) does not include income chargeable to income-tax under the head "Profits and gains of business or profession"; and (C) does not include any brought forward or carried forward loss or allowance except under the head "Income from house property", be in Form No. 2A and be verified in the manner indicated therein : Provided that -the assessee to whom this sub-clause applies shall also have the option of filing the return in Form No. 3;

10. Substituted by the IT (Tenth Amdt.) Rules, 2001, w.e.f.2-7-2001. Prior to its substitution, subclause (iii), as amended by the IT (Amdt.) Rules, 1981, w.e.f. 1-4-1981; IT (Third Amdt.) Rules, 1994, w.e.f. 1-6-1994 and IT (Thirteenth Amdt.) Rules, 1998, w.e.f. 9-9-1998, read as under : (iii) where the total income does not include any income chargeable to income-tax under the head "Profits and gains of business or profession" and the case does not fall under sub-clause (ii) be in Form No. 3 and be verified in the manner indicated therein : Provided that the assessee to whom clause (b) applies shall also have the option of filing the return in Form No. 2D : SARAL;

11. Inserted by the IT (Thirteenth Amdt.) Rules, 2002, w.e.f. 24-6-2002.

12. For text of section 25 of the Companies Act, 1956, see Appendix.

13. Inserted by the IT (Eighth Amdt.) Rules, 1997, w.e.f. 27-6-1997, as corrected by Notification No. SO 870(E), dated 15-12-1997.

14. Inserted by the IT (Sixteenth Amdt.) Rules, 1995, w.e.f. 23-8-1995. \*Now first proviso.

**12A. 39[Preparation of return by authorised representative.**

:-

Every authorised representative of an assessee, being an authorised representative specified in clause (iii) or clause (iv) or clause (v) or clause (vi) or clause (vii) of sub-section (2) of section 288, who has prepared the return of income furnished by the assessee shall, either before making an appearance before the [Assessing Officer] having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income; and (b) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination.]

**12B. 41[Statement under sub-section (3A) of section 115R.**

:-

(1) The statement of income distributed shall be furnished as provided in subrules (2) and (3) to,

(i) the Assessing Officer so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the principle office of the Unit Trust of India or the concerned Mutual Fund is situated;

(ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the principal office of the Unit Trust of India or the concerned Mutual Fund is situated.

(2) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by the Unit Trust of India shall be in Form No. 63, duly verified by an accountant in the manner indicated therein.

(3) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by a Mutual Fund shall be in Form No. 63A, duly verified by an accountant in the manner indicated therein.]

39. Inserted by the IT (Amdt.) Rules, 1962. This rule will get attracted only if the representative in question had prepared the return of income furnished by the assessee - *Jayasree Chit Funds and Services (P.) Ltd. v. CIT* [1981] 127 ITR 740 (K e r.). For details, see *Taxmanns Master Guide to Income-tax Rules*. 40. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988. 41 Inserted b\\ the IT (Fourteenth Amdt.) Rules, 2000, w.e f. 29-8-2000.

**12C. 42[Statement under sub-section (2) of section 115U.**

:-

(1) The statement of distributed income shall be furnished by the 30th November of the financial year following the previous year during which such income is distributed, to the Chief Commissioner or Commissioner of Income-tax, within whose jurisdiction, the principal office of the Venture Capital Company or the Venture Capital Fund, as the case may be, is situated.

(2) The statement of distributed income which is to be furnished under sub-section (2) of section 115U by the Venture Capital Company or the Venture Capital Fund shall be in Form No. 64, duly verified by an accountant in the manner indicated therein.]

**1**

1. Prior to its omission, rule 13, as amended by the IT (Fourth

Amdt.) Rules, 1971, w.e.f. 1-4-1971, stood as under : "13. The application to the Income-tax Officer under the proviso to sub-section (1), or the proviso to sub-section (2), or sub-section (3), of section 139 for seeking an extension of the date for furnishing the return of income shall be in Form No. 6."

**13. Application for extension of time for filing return of income. :-**

[Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

**14. Form of verification under section 142. :-**

The information which a person is required by the <sup>1</sup> [Assessing Officer] to furnish under clause (ii) of sub-section (1) of section 142 shall be verified in the following manner, namely :

" I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct and complete and other particulars shown therein are truly stated."

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**14A. 45[45Form of audit report under section 142(2A). :-**

The report of audit of the accounts of an assessee which is required to be furnished under sub-section (2A) of section 142 shall be in Form No. 6B.]

**14B. Form of application objecting to an assessment made under section 143(1). :-**

<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

1. Prior to its omission, rule 14B, as inserted by the IT (Amdt.) Rules, 1972 as rule 14A and later renumbered by the IT (Second Amdt.) Rules, 1977, stood as under : "The application to be made by an assessee under clause (a) of sub-section (2) of section 143, in a case where he objects to an assessment made under sub-section (1) of that section, shall be in Form No. 6A."

**15. Notice of demand for regular assessment, etc. :-**

(1) Subject to the provisions of rules <sup>1</sup>[<sup>2</sup> [\* \* \*] 38 and 48A], the notice of demand under section 156 shall be in Form No. 7.

(2) [Omitted by the IT (Third Amdt.) Rules, 1964}

1. Substituted for "rules 16 and 38" by the IT (Fourth Amdt.) Rules, 1964.

2. "16," omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

### **PART 3A AVOIDANCE OF REPETITIVE APPEALS**

#### **16. Declaration under section 158A. :-**

(1) The declaration referred to in sub-section (1) of section 158A shall be in Form No. 8 and shall be verified in the manner indicated therein.

(2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in sub-rule (2) of rule 45.

(3) The declaration referred to in sub-rule (1) shall,

(a) in a case where it is furnished to the <sup>1</sup> [Deputy Commissioner (Appeals)] or the Commissioner (Appeals), be in duplicate, and

(b) in a case where it is furnished to the Appellate Tribunal, be in triplicate.]

1. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **PART 4 TAX EXEMPTIONS AND RELIEFS**

#### **16A. Prescribed authority for approving any institution or body established for scientific research. :-**

<sup>1</sup>For the purposes of sub-clause (viiia) of clause (6) of section 10<sup>2</sup>, the "prescribed authority" shall be the Secretary, Department of <sup>3</sup> [Scientific and Industrial Research], Government of India :

Provided that every case pending on or before the 1st day of June, 1982, with any authority, other than the said Secretary, shall stand transferred to the said Secretary for disposal.]

1. Substituted by the IT (Fourth Amdt.) Rules, 1982, w.e.f. 1-6-1982. Original rule 16A was inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971 and later substituted by the IT (Fifth Amdt.) Rules, 1974, w.e.f. 2-11-1974 and amended by the IT (Seventh Amdt.) Rules, 1977, w.e.f. 1-11-1977.

2. Section 10(6)(viiia) was omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.



3. Substituted for "Science and Technology" by the IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985.

**16B. 58[Prescribed authority for the purposes of clauses (8A) and (8B) of section 10. :-**

For the purposes of clauses (8A) and (8B) of section 10, the "prescribed authority" shall be the Additional Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India in concurrence with Member (Income-tax) of the Board.]

**16C. 59[Requirements for approval of a fund under section 10(23AAA). :-**

(1) The fund shall be formed under a trust and it shall be evidenced by a trust deed.

(2) The contributions to the fund are to be made by the employees by way of periodical subscription.

(3) The application for approval of any fund under clause (23AAA) of section 10 shall be made in Form No. 9 to the Commissioner having jurisdiction over the area or territory in which the accounts are kept and such application shall be accompanied by the documents mentioned therein.

(4) Where the Commissioner is satisfied that all the conditions laid down in clause (23AAA) of section 10 are fulfilled in the case of the fund, he shall record such satisfaction in writing and grant approval to the fund specifying the assessment year or years for which the approval is valid so however that such approval shall, at one time, have effect for such assessment year or years not exceeding three assessment years.

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clause (23AAA) of section 10 are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing :

Provided that no order of rejection of an application shall be passed without giving an opportunity of being heard.]

**16D. 60[Form of report for claiming deduction under section 10A. :-**

The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10A shall be in Form No. 56F.]

**16E. 61[Form of report for claiming deduction under section 10B. :-**

The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10B shall be in Form No. 56G.]

**17. 62[Notice for accumulation of income by charitable or religious trust or institution or association referred to in clauses (21) and (23) of section 10. :-**

The notice to be given to the Assessing Officer or the prescribed authority under sub-section (2) of section 11 or under the said provision as applicable under clause (21) or clause (23) of section 10 shall be in Form No. 10 and shall be delivered before the expiry of the time allowed under sub-section (1) of section 139, for furnishing the return of income.]

**17A. 63[Application for registration of charitable or religious trusts, etc. :-**

<sup>1</sup>An application under <sup>2</sup>[clause (aa) of sub-section (1)] of section 12A for registration of a charitable or religious trust or institution shall be made in duplicate in Form No. 10A and shall be accompanied by the following documents, namely :

(a) where the trust is created, or the institution is established, under an instrument, the instrument in original, together with one copy thereof; and where the trust is created, or the institution is established, otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution, together with one copy thereof:

Provided that if the instrument or document in original cannot conveniently be produced, it shall be open to the <sup>34</sup> [\*\*\*] to accept a certified copy in lieu of the original;

(b) where the trust or institution has been in existence during any year or years, prior to the financial year in which the application for registration is made, two copies of the accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said

application is made) for which such accounts have been made up.]

Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

In Rule 17A, for the word, brackets and letter "clause (a)", the words, brackets, letters and figure "clause (aa) of sub-section (1)" shall be substituted, by the Income-tax (Seventh Amendment) Rules, 2007.

Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

In Rule 17A, in clause (a), in the proviso, the words "Chief Commissioner or" shall be omitted, by the Income-tax (Seventh Amendment) Rules, 2007.

**17B. 65[Audit report in the case of charitable or religious trusts, etc. :-**

The report of audit of the accounts of a trust or institution which is required to be furnished under clause (b) of section 12A, shall be in Form No. 10B.]

**17C. 66[Forms or modes of investment or deposits by a charitable or religious trust or institution. :-**

**255** The forms and modes of investment or deposits under clause (xii) of subsection (5) of section 11 shall be the following, namely :  
(i) investment in the units issued under any scheme of the mutual fund referred to in clause (23D) of section 10 of the Income-tax Act, 1961;

**256** [\*\*\*]

(ii) any transfer of deposits to the Public Account of India;]

**257** [(iii) deposits made with an 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;]

**258** [(iv) investment by way of acquiring equity shares of a depository as defined in clause (e) of sub-section (1) of section **259** 70 of the Depositories Act, 1996 (22 of 1996).]

**260** (vi) investment by way of acquiring equity shares of an

incubatee by an incubator.

Explanation. For the purposes of this clause,-

- (a) "incubatee" shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;
- (b) "incubator" shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as may be notified by the Government of India in the Ministry of Science and Technology.

Inserted by the IT (Eighth Amdt.) Rules, 1990, w.e.f. 29-3-1990.

Omitted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 29-3-1990. Earlier it was inserted by the IT (Eighth Amdt.) Rules, 1990, w.e.f. 29-3-1990.

Inserted by the IT (First Amdt.) Rules, 1995, w.e.f. 6-1-1995.

Inserted by the IT (Fifteenth Amdt.) Rules, 1998, w.e.f. 17-9-1998.

Inserted by the IT (Thirteenth Amdt.) Rules, 1999, w.e.f. 2-6-1999.

In the income-tax Rules, 1962, In Part IV, in rule 17C, after clause (v), the following shall be inserted, namely:- "(vi) investment by way of acquiring equity shares of an incubatee by an incubator. Explanation. For the purposes of this clause,- (a) "incubatee" shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology; (b) "incubator" shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as may be notified by the Government of India in the Ministry of Science and Technology." by the "Income-tax (Second Amendment) Rules, 2007".

**17D. 71[Prescribed foreign projects for the purposes of deduction in respect of profits and gains from projects outside India under section 80HHB. :-**

For the purposes of sub-clause (in) of clause (b) of sub-section (2) of section 80HHB, any project for execution of work of exploration, exploitation, development and production of hydrocarbons outside India shall be a foreign project.]

**18. Accommodation and amenities to be provided by hotels. :-**

[Omitted by the IT (Third Amdt.) Rules, 1973, w.e.f. 1-4-1974.

Prior to its omission, original rule 18 was amended by the IT (Third Amdt.) Rules, 1964/ 1967 and IT (Second Amdt.) Rules, 1968.]

**18A. Prescribed authority to certify the daily average number of rehabilitated employees in an industrial undertaking. :-**

[Omitted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 18A was inserted by the IT (Fourth Amdt.) Rules, 1968 and later amended by the IT (Secnd/Third Amdt.) Rules, 1970]

**18AA. Prescribed authority for approval of a hotel under section 80CC. :-**

<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1996, w.r.e.f. 1-4-1993.]

1. Prior to its omission, rule 18AA, as inserted by the IT (Ninth Amdt.) Rules, 1990, w.e.f. 11-4-1990, read as under : Prescribed authority for approval of a hotel under section 80CC. For the purposes of sub-clause (iii) of clause (a) of sub-section (3) of section 80CC, the prescribed authority shall be the Director General, in the Directorate General of Tourism, Government of India."

**18AAA. 73 [Prescribed authority for approval of a University or any educational institution of national eminence for the purpose of section 80G. :-**

For the purpose of sub-clause (iiif) of clause (a) of sub-section (2) of section 80G, the prescribed authority,

(a) in relation to a university or any non-technical institution of national eminence, shall be the Director General (Income-tax Exemptions), who shall grant approval with the concurrence of the Secretary, University Grants Commission;

(b) in relation to any technical institution of national eminence, shall be the Director General (Income-tax Exemptions) who shall grant approval with the concurrence of the Secretary, All India Council of Technical Education.

Explanation: For the purposes of this rule,

(1) "All India Council of Technical Education" means the All India Council of Technical Education established under S.3 of the All India Council for Technical Education Act, 1987;

(2) "University Grants Commission" means the University Grants Commission established under Section 4 of the University Grants

Commission Act, 1956 .]

**18AAA. Prescribed authority for the purpose of receiving separate accounts from trust or funds or institutions for providing relief to the victims of earthquake in Gujrat :-**

. .1 -

(1) For the purpose of sub-section (5C) of section 80F, the prescribed authority shall be the Director General of Income-tax (Exemptions).

(2) The trust, the fund or the institution, which is established in India for a charitable purpose and is approved in terms of clause (vi) of sub-section (5) shall maintain separate accounts of income and expenditure for providing relief to the victims of earthquake in Gujrat and get such accounts audited by an accountant, as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit, duly signed and verified by such accountant to the Director General of Income-tax (Exemptions) in Form No. 10AA. Such authority, on receipt of the accounts in the said form, shall give the finding as to whether the donations received for the purpose of providing relief to the victims of earthquake in Gujrat are chargeable to tax in the hands of the trust or the fund or the institution under clause (23C) of section 10 or under section 12 or not, as the case may be, and determine the extent thereof.

(3) Where the findings of the Director General of Income-tax (Exemptions) are not beneficial to the assessee, such authority shall give an opportunity to the assessee before making the findings.

(4) The Director General of Income-tax (Exemption) shall bring his findings to the knowledge of the concerned assessing officer within one month of making such findings.":

1. Inserted by Income-tax (22nd Amendment) Rules, 2002, W.e.f 3/2/2002

**18AAB. 74[Prescribed authority for approval of companies engaged in Scientific and Industrial Research and Development for the purposes of section 80-IA. :-**

For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.]

**18B. 75[Form of audit report for claiming deduction under section 80HH. :-**

The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (5) of section 80HH shall be in Form No. 10C.]

**18BB. 76[Form of audit report for claiming deduction under section 80HHA. :-**

The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under subsection (4) of section 80HHA shall be in Form No. 10CC.]

**18BBA. 77[78[Form of reports for claiming deduction under section 80HHB or under section 80HHC or under section 80HHD and prescribed authority under section 80HHD.] :-**

(1) The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under clause (;) of sub-section (3) of section 80HHB shall be in Form No. 10CCA.

<sup>1</sup>[(1A) The report of the audit of the accounts of an assessee which is required to be furnished under clause (;) of sub-section (2) of section 80HHBA shall be in Form No. 10CCAA.]

<sup>2</sup>[(1B) The certificate from an accountant which is required to be furnished by the assessee under clause (id) of sub-section (3) of section 80HHB shall be in Form No. 10CCAH.]

<sup>3</sup>[(2) The certificate from the Export House or Trading House which is required to be furnished by the supporting manufacturer under clause (b) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAB.]

(3) The report of an accountant which is required to be furnished by the assessee under sub-section (4) or clause (a) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAC.]

<sup>4</sup>[(4) The report of the accountant which is required to be furnished by the assessee under sub-section (6) of section 80HHD shall be in Form No. 10CCAD.]

<sup>5</sup>[(5) For the purposes of section 80HHD, the "prescribed authority" shall be. the Director General in the Directorate General of Tourism,

Government of India.]

<sup>6</sup>[(6) The certificate from a person making payment to an assessee, engaged in the business of a hotel or of a tour operator or of a travel agent which is required to be furnished under sub-section (2A) of section 80HHD shall be in Form No. 10CCAЕ.]

<sup>7</sup>[(7) The report of an accountant which is required to be furnished by the assessee under sub-section (4)<sup>8</sup>[or clause (i) of sub-section (4A)] of section 80HHE shall be in Form No. 10CCAF.]

<sup>9</sup>[(8) The certificate from the exporting company which is required to be furnished by the supporting software developer under clause (ii) of sub-section (4A) of section 80HHE shall be in Form No. 10CCAG.]

<sup>10</sup> [(9) The report of an accountant which is required to be furnished by the assessee under sub-section (4) of section 80HHF shall be in Form No. 10CCAL]

1. Inserted by the IT (Second Amdt.) Rules, 1999, w.e.f. 15-1-1999.

2. Inserted by the IT (Twelfth Amdt.) Rules, 1999, w.e.f. 1-6-1999.

3. Substituted for sub-rule (2) by the IT (Second Amdt.) Rules, 1989, w.e.f. 1-4-1989.

4. Inserted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

5. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

6. Inserted by the IT (Sixth Amdt.) Rules, 1992, w.e.f. 1-4-1992.

7. Inserted by the IT (Fourth Amdt.) Rules, 1992, w.r.e.f. 1-4-1991.

8. Inserted by the IT (Twenty-second Amdt.) Rules, 1998, w.e.f. 23-10-1998.

9. Inserted by the IT (Twenty-third Amdt.) Rules, 1998, w.e.f. 23-10-1998.

10. Inserted by the IT (Eighteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

**18BBB. "Form of audit report for claiming deduction under section 80-1 or 80-IA or section 80-IB. 18BBB :-**



. <sup>1</sup> (1) The report of the audit of the account of an assessee, which is required to be furnished under sub-section (7) of section 80-IA or sub-section (7) of section 80-1, except in the case of multiplex theatres as defined in sub-section (7A) of section 80-IB or convention centres as defined in sub-section (7B) of section 80-IB, shall be in Form Number 10CCB.

(2) A separate report is to be furnished by each undertaking or enterprise of the assessee claiming deduction under section 80-1 or 80-IB and shall be accompanied by the Profit and Loss Account and Balance Sheet of the undertaking or enterprise as if the undertaking or the enterprise were a distinct entity.

(3) In the case of an enterprise carrying on the business of developing or operating and maintaining or developing, operating and maintaining an infrastructure facility, the form shall be accompanied by a copy of the agreement of the enterprise with the Central Government or the State Government or the local authority for carrying on the business of developing or operating and maintaining or developing, operating and maintaining the infrastructure facility.

(4) In any other case, the form shall be accompanied by a copy of the agreement, approval or permission, as the case may be, to carry on the activity signed or issued by the Central Government or the State Government or the local authority for carrying on the eligible business."

1. Substituted by IT (Twenty-third Amdt.) Rules, 2002, w.e.f. 1-4-2002.

**18BBC. 92[Prescribed authority for approval of hotels located in certain areas. :-**

(1) For the purposes of sub-clause (iii) of clause (c) of sub-section (7) of section 80-IB, the prescribed authority,

(a) in relation to hotels located in an area or place referred to in clause (a) of that sub-section, shall be the Director General (Income-tax Exemptions) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;

(b) in relation to hotels located in any place referred to in clause (b) of that sub-section, shall be the Director General in the Directorate General of Tourism, Government of India.

(2) For the purpose of clause (a) of sub-section (7) of section 80-

IB, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled namely :

(a) such hotel is located in an area or place specified under clause (a) of the said sub-section (7);

(b) there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (a) of the said sub-section (7) within the jurisdiction of the revenue sub-division in which the hotel is located;

(c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (a) of the said sub-section (7) on the recommendations of the Department of Tourism.]

**18BBD. 93[Prescribed authority for approval of companies carrying on scientific and industrial research and development. :-**

For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary in the Department of Scientific and Industrial Research and Development, Ministry of Science and Technology, Government of India.]

**18BBE. 94[Computation of profits of certain activities forming integral part of a highway project for the purpose of section 80-IA. :-**

(1) For the purpose of sub-section <sup>1</sup>[(6)] of section 80-IA, the profits of housing or other activities, which are integral part of a highway project, shall be computed on the basis and manner specified below :

(i) in a case where the annual profits of the housing or other activities which are integral part of a highway project can be arrived at in accordance with the regular method of accounting followed, the profits so arrived at as computed under the provisions of the Act;

(ii) in any other case, the amount of profits arrived at based on the percentage of completion of the activities referred to in clause (i) during the relevant previous year.

(2) Every assessee shall maintain separate accounts for the activities referred to in sub-rule (1) and shall submit a certificate from an accountant, specifying the amount credited to the reserve account and the amount utilised during the relevant previous year

for the highway project.

Explanation: For the purposes of this rule, "accountant" means, (i) a Chartered Accountant<sup>2</sup> within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or (ii) any person who, in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

(3) The certificate referred to in sub-rule (2) shall be in Form No. 10CCC.]

1. Substituted for "(7A)" by the IT (Sixteenth Amdt,) Rules, 1999, w.e.f. 1-4-2000.

2. Clause (b) of section 2 of the Chartered Accountants Act, 1949, defines "chartered accountant" as follows : (b) "chartered accountant" means a person who is a member of the institute;

**18C. [Eligibility of Industrial Parks and special Economic Zones for benefits under section 80-IA(4D)(iii). :-**

<sup>1</sup>(1) The undertaking shall begin to operate an industrial park during the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2002.

<sup>2</sup> (1 A) The undertaking shall begin to develop or develop and operate or maintain and operate a special economic zone any time during the period beginning of 1st day of April, 2001 and ending on 31st day of March, 2006,":

(2) The undertaking shall be duly approved by the Ministry of Commerce and Industry in the Central Government under the scheme for industrial park or special economic zones notified by that Ministry.

(3) The undertaking shall continue to fulfil the conditions envisaged in the scheme.

(4) On approval under sub-rule (2), the Central Board of Direct Taxes, shall notify industrial parks for benefits under section 80-IA.]

1. Inserted by the IT (Twenty-sixth Amdt.) Rules, 1998, w.e.f. 24-12-1998. Earlier existing rule 18C was inserted by the IT (Third Amdt.) Rules, 1975, w.e.f. 1-4-1976 and later on omitted by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1989.

2. Inserted by the IT (First Amdt.) Rules, 2001, w.e.f. 31-1-2001.

**18D. Prescribed authority for approval of companies carrying on scientific research and development. :-**

<sup>1</sup> (1) For the purposes of sub-section (8A) of section 80-IB, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.

(2) The prescribed authority shall initially grant approval to a company carrying on scientific research and development for a period of three assessment years and Subject to satisfactory performance of that company on periodic review extend the said approval for a further period of three assessment years so that the total period of approval is for ten consecutive assessment years, beginning from the initial assessment year.

1. Inserted by the IT (First Amdt.) Rules, 2001, w.e.f. 31-1-2001.

**18DA. Prescribed conditions for deduction under sub-section (8A) of section 80-IB. :-**

(1) Any company carrying on scientific research and development shall be eligible for deduction specified in sub-section (8A) of section 80-IB, if such company

(a) is registered in India;

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

(c) has adequate infrastructure such as laboratory facilities, qualified manpower, scale-up facilities and prototype development facilities for undertaking scientific research and development of its own;

(d) has a well formulated research and development programme comprising of time bound research and development projects with proper mechanism for selection and review of the projects or programme;

(e) is engaged exclusively in scientific research and development activities leading to technology development, improvement of technology and transfer of technology developed by themselves;

(f) submits the annual return alongwith statement of accounts and annual report within eight months after the close of each accounting year to the prescribed authority.

(2) Every company which is approved under sub-rule (2) of rule

18D shall

(a) sell any prototype or output, if any, from its laboratories or pilot plants with the prior permission of the prescribed authority;

(b) intimate the change, if any, in its memorandum of association and articles of association relating to its main objects and forward the altered copy of its memorandum of association and articles of association to the prescribed authority;

(c) apply for extension of the approval at least three months before expiry of the approval already granted by the prescribed authority;

(d) have a system of monitoring the cost of research and development projects.

(3) If, at any stage, it is found that

(a) the approval granted to the company referred to in sub-rule (2) of rule 18D is to avoid payment of taxes by its group companies or companies related to its directors or majority of its shareholders;

(b) any provisions of the Act or the rules have been violated, the prescribed authority specified may withdraw the approval so granted.

(4) Every company referred to in sub-rule (1) shall make an application to the prescribed authority for the purposes of obtaining approval.

(5) Every application referred to in sub-rule (4) shall be accompanied by

(a) memorandum of association and articles of association incorporating all amendments duly certified by the company secretary or managing director of the company;

(b) annual report of the company for the last three years, if available;

(c) photocopies of the memorandum of understanding relating to all-on-going and future sponsored research projects or programmes.

(6) The prescribed authority may call for any information or document which may be necessary for consideration of the grant of approval under sub-rule (2) of rule 18D.

(7) The prescribed authority shall grant approval within four months from the date of receipt of the application :

Provided that where the approval is not granted, the decision of the said authority shall be communicated to the applicant within the said period of four months :

Provided further that no approval shall be refused unless the applicant has been given an opportunity of being heard.]

## **19. Computation of capital employed in an industrial undertaking or a hotel. :-**

<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

1. Prior to its omission, rule 19A, as inserted by the IT (Second Amdt.) Rules, 1968, w.e.f. 1-4-1968 and later amended by the IT (Third Amdt.) Rules, 1971, w.e.f. 1-4-1972, read as under : 19A. Computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.(1) For the purposes of section 80J, the capital employed in an industrial undertaking or the business of a hotel shall be computed in accordance with sub-rules (2) to (4), and the capital employed in a ship shall be computed in accordance with sub-rule (5). (2) The aggregate of the amounts representing the values of the assets as on the first day of the computation period, of the undertaking or of the business of the hotel to which the said section 80J applies shall first be ascertained in the following manner : (i) in the case of assets entitled to depreciation, their written down value; (ii) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee; (iii) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business; (iv) in the case of assets being debts due to the person carrying on the business, the nominal amount of those debts; (v) in the case of assets being cash in hand or bank, the amount thereof. Explanation 1 In this rule, "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A. Explanation 2. The value of any building, machinery or plant or any part thereof as is referred to in clause (a) or clause (b) of the Explanation at the end of sub-section (6) of section 80J shall not "be taken into account in computing the capital employed in the industrial undertaking or, as the case may be, the business of the hotel. Explanation 3. Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset. (3) From the aggregate of the amounts as ascertained under sub-rule (2) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax). Explanation. For the purpose of this sub-rule, (i) "tax" means (a) income-tax or super-tax (including advance tax) due under any provision of the Act; (b) wealth-tax due under any provision of the Wealth-tax Act, 1957 (27 of 1957); (c) gift-tax due under any provision of the Gift-tax Act, 1958 (18 of 1958); (d) super profits tax due under any provision of the Super Profits Tax Act, 1963 (14 of 1963); (e) surtax due under any provision of the Companies

(Profits) Surtax Act, 1964 (7 of 1964); (ii) any liability in respect of tax shall be deemed to have become due (a) in the case of advance tax due under any provision of the Act, on the date on which such advance tax is payable; and (b) in the case of any other tax, on the first day of the period within which it is required to be paid. (4) The resultant sum as determined under sub-rule (3) shall be diminished by the value, as ascertained under sub-rule (2), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under sub-rule (3) are required to be deducted in computing the capital. (5) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship. Explanation In this sub-rule, "computation date", in relation to a ship, means, (a) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use; (b) in respect of any subsequent previous year, the first day of such previous year.

**19A. computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J. :-**

[Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999]

**19AB. 3[Form of report for claiming deduction under section 80JJAA. :-**

Report of an accountant which is required to be furnished by the assessee along with the return of income under clause (b) of sub-section (2) of section 80JJAA shall be in Form No. 10DA.]

**20. 4[Guidelines for approval under clause (xvi) of sub-section (2) of section 88. :-**

The Board, before granting approval to a public company, under clause (xvi) of sub-section (2) of section 88, shall satisfy itself that the application made to it fulfils the following requirements, namely :

(I) An application for approval has been made in the Form No. 59 by the public company three months before the <sup>1</sup>[eligible issue of capital].

<sup>2</sup> [Explanation. For the purpose of this rule, "the eligible issue of capital" means an issue referred to in clause (i) of Explanation of clause (xvi) in sub-section (2) of section 88.]

(2) Every application shall be accompanied by the following documents, namely :

(a) a copy of the certificate of incorporation under the Companies Act, 1956 ;

(b) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made:

Provided that where a company has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence.

(3) Every such public company shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :

(i) twenty-five per cent or more of such capital shall be invested in the infrastructure facility before the end of one year from the date of approval of the Board;

(ii) the balance of such capital shall be invested within a period of three years from the date of approval.

(4) Every such public company shall submit a certificate from an accountant, as defined in the Explanation in sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.

(5) The Board shall pass an order in writing granting approval or refusing approval to such public company, as the case may be :

Provided that no order refusing approval shall be passed by the Board before allowing an opportunity of being heard to the public company.

(6) The Board shall have the power to withdraw the approval granted under sub-rule (5) in the following circumstances, namely :

(a) if such public company fails to make investments as per conditions mentioned in sub-rule (3); or

(b) if such public company fails to file the certificate referred to in sub-rule (4).]

1. Substituted for "public issue" by the IT (Second Amdt.) Rules, 1997, w.r.e.f. 22-11-1996.

2. Inserted, *ibid*.



**27A. 7[Guidelines for approval under clause (xvii) of sub-section (2) of section 88. :-**

(1) For the purpose of clause (xvii) of sub-section (2) of section 88, the prescribed authority shall be the Central Board of Direct Taxes.

(2) An application for approval shall be made in Form No. 59A by the Mutual Fund . to the Board referred in sub-rule (1) three months before the public issue.

(3) Every application for approval under sub-rule (2) shall be accompanied by the following documents, namely :

(a) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made :

Provided that where a Mutual Fund has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence;

(b) a copy of the certificate of registration issued by the Securities and Exchange Board of India.

(4) Every such Mutual Fund shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :

(i) twenty-five per cent or more of such capital shall be invested in the "eligible issue of capital of any company" referred to in clause (i) of Explanation to clause (xvi) of sub-section (2) of section 88, before the end of one year from the date of approval of the Board;

(ii) the balance of such capital shall be invested within a period of three years from the date of approval.

(5) Every such Mutual Fund shall submit a certificate from an accountant, as defined in the Explanation to sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.

(6) The Board shall pass an order in writing granting approval or refusing approval to such Mutual Fund, as the case may be :

Provided that no order of refusing approval shall be passed by the Board without an opportunity of being heard given to the Mutual Fund.

(7) The Board shall have the power to withdraw the approval granted under sub- rule (6) under the following circumstances, namely : (a) if such Mutual Fund fails to make investments as mentioned in sub-rule (4); or (b) if such Mutual Fund fails to file

the certificate referred to in sub-rule (5).]

**21. Limits for life insurance premia in the case of authors, etc. :-**

[Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

**21A. 8[Relief when salary is paid in arrears or in advance, etc. :-**

(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the relief to be granted under sub-section (1) of section 89 shall be

(a) where any portion of the assessee's salary is received in arrears or in advance, in accordance with the provisions of sub-rule (2);

(b) where the payment is in the nature of gratuity in respect of past services of the assessee extending over a period of not less than five years, in accordance with the provisions of sub-rule (3);

(c) where the payment is in the nature of compensation received by the assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for not less than three years and where the unexpired portion of his term of employment is also not less than three years, in accordance with the provisions of sub-rule (4);

(d) where the payment is in commutation of pension, in accordance with the provisions of sub-rule (5); and

(e) where the payment is not in the nature of salary paid in arrears or in advance or gratuity in respect of past services or compensation received at or in connection with the termination of employment or in commutation of pension, in accordance with the provisions of sub-rule (6).

(2)(a) In a case referred to in clause (a) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the salary is received in arrears or in advance (such salary and such previous year being hereafter in this sub-rule referred to respectively as the additional salary and the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional salary, calculated in the manner specified in clause (b),

exceeds the tax or the aggregate tax on the additional salary, calculated in the manner specified in clause (c) or clause (a), as the case may be.

Relief under section 89(1) is to be given in the assessment in which the extra payment by way of arrears, advance, etc., is taxed - Circular No. 331, dated 22-3-1982. Relief would also be admissible on encashment of leave salary while in service - Circular No. 431, dated 12-9-1985. For formula for computation of relief on gratuity, see Circular No. 9-D(LIII-6), dated 17-3-1966 as modified by Circular No. 14-D(LIII-7), dated 19-4-1966. Where the Supreme Court awarded lump sum compensation in lieu of back wages and future wages in an industrial dispute with a direction that the lump sum should be spread over the back period, relief under section 89(1) is admissible and it must be quantified before making payment - Sundaram Motors (P.) Ltd. v. Ameerjan [1985] 152 ITR 64 (SC). Relief is admissible on arrears of salary paid under orders of court - Sant Raj v. O.P. Singla [1987] 163 ITR 588 (SC), K.C. Joshi v. Union of India [1987] 163 ITR 597 (SC). Where back wages are paid to assessee pursuant to striking down of termination order by court, relief is admissible - Satyapal v. Wool and Woollen Export Promotion Council [1988] 169 ITR 507 (Bom.). Compensation received consequent to resignation is also entitled to relief - CIT v. J. Visalakshi [1994] 206 ITR 531 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

(b) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional salary, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional salary under this clause.

(c) Where the additional salary relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional salary, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional salary under this clause.

(d) Where the additional salary relates to more than one previous year, (i) the previous years to which the additional salary relates and the amount relating to each such previous year shall first be

ascertained; (ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i), as if the total income so increased were the total income of that previous year, and the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (ii) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional salary under this clause.

(3)(a) In a case referred to in clause (b) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of gratuity is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the gratuity included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such gratuity, calculated at the rate of tax determined under clause (b) or, as the case may be, clause (c).

(b) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than five years but less than fifteen years,

(i) the total income of the assessee in respect of each of the two previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-half of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said two previous years shall be calculated as if the total income so increased were the total income of that previous year; and

(ii) the average of the average rates of tax for the two previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(c) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than fifteen years,

(i) the total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said three

previous years shall be calculated as if the total income so increased were the total income of that previous year; and

(ii) the average of the average rates of tax for the three previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(4)(a) In a case referred to in clause (c) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of compensation is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the compensation included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such compensation, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the compensation included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(5)(a) In a case referred to in clause (a) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment in commutation of pension is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the payment in commutation of pension included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such payment, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of payment in commutation of pension included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total

income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(6) In a case referred to in clause (e) of sub-rule (1), the Board may, having regard to the circumstances of the case, allow such relief as it deems fit.]

**21AA. Furnishing of particulars for claiming relief under section 89(1). :-**

<sup>1</sup>Where the assessee, being a Government servant or an employee in a <sup>2</sup> [company, co-operative society, local authority, university, institution, association or body], is entitled to relief under sub-section (1) of section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars specified in Form No. 10E.]

1. Inserted by the IT (Eighth Amdt.) Rules, 1987. See section 192(2A).

2. Substituted for "public sector undertaking by the IT (Ninth Amdt.) Rules, 1991, w.e.f. 16-5-1991.

**21B. Relief when interest on securities is received in arrears. :-**

. <sup>1</sup> [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

1. Prior to its omission, rule 21B, as inserted by the IT (Amdt.) Rules, 1972, w.r.e.f. 1-4-1971, read as under : "21B. Relief when interest on securities is received in arrears.(a) Where by reason of any portion of an assessee's income from interest on securities being received in arrears his total income is assessed at a rate higher than that at which it would otherwise have been assessed, the tax payable by the assessee on his total income of the previous year in which the income from interest on securities is received in arrears (such income and such previous year being hereafter in this rule referred to respectively as the additional interest and the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional interest, calculated in the manner specified in clause (b), exceeds the tax or the aggregate tax on the additional interest, calculated in the manner specified in clause (c) or clause (d), as the case may be. (b) Tax shall be calculated on the total income of the relevant previous year as reduced by the

additional interest, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional interest under this clause. (c) Where the additional interest relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional interest, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional interest under this clause. (d) Where the additional interest relates to more than one previous year, (i) the previous years to which the additional interest relates and the amount relating to each such previous year shall first be ascertained; (ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i), as if the total income so increased were the total income of that previous year, and the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (ii) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional interest under this clause."

## **PART 5 REGISTRATION OF FIRMS**

### **22. Application for registration of a firm. :-**

(1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub-rules (2) to (5).

(2) Where the application is made before the end of the relevant previous year

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the previous year before the date of the application

(a) the application shall be made in Form No. 11; and

(b) it shall be accompanied by the original instrument evidencing the partnership at the date of the application together with a copy thereof. A certified copy of the instrument together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument cannot be produced;

<sup>1</sup>(ii) and where any change or changes in the constitution of the

firm or the shares of the partners have taken place during the previous year before the date of the application

(a) the application shall be made in Form No. 11A; and

(b) it shall be accompanied by the original instrument or instruments, evidencing the partnership as in existence from time to time during the previous year up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.

(3) Where after the date of making an application under sub-rule (2), any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year, a fresh application shall be made after each such change takes place in accordance with the provisions of sub-clauses (a) and (b) of clause (ii) of sub-rule (2) and the time-limit prescribed in sub-section (4) of section 184 shall apply to each such application.

(4) Where the application is made after the end of the relevant previous year

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the said previous year and up to the date of the application, the application shall be made in accordance with the provisions of sub-clauses (a) and (b) of clause (i) of sub-rule (2);

(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the said previous year and/or after the end of the previous year but before the date of the application

(a) the application shall be made in Form No. 11A; and

(b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year and up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.

<sup>2</sup> (5) The application shall be signed personally by all the partners (not being minors) in the firm as constituted at the date of the application and, in the case of a dissolved firm, personally by all the persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased so, however, that in the case



of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him.

1. See CIT v. K. Damodaran Nair [1981] 130 ITR 682 (Ker) and D.S Mahadevasa and Co. v. CIT [1984] 145 ITR 187(Kar.) on this clause.

2. See Srinivasa Stainless Steel and Moulding Works v. CIT [1987] 32 Taxman 102 (AP) on requirement of signing application.

### **23. Intimation regarding subsequent changes in constitution, etc. :-**

. If after the date of the application, or of the last application where more than one application are made, for registration of a firm for any assessment year and before the assessment for that assessment year is completed by the <sup>1</sup>[Assessing Officer], so far as known to the firm, any change or changes take place in the constitution of the firm or the shares of the partners, the details of such change or changes shall be communicated by the firm to the <sup>1</sup> [Assessing Officer] as soon as possible after each such change takes place.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **24. Declaration for continuation of registration. :-**

<sup>12</sup> The declaration to be furnished under sub-section (7) of section 184 shall be in Form No. 12 and shall be verified in the manner indicated therein and shall be signed by the persons concerned in accordance with sub-rule (5) of rule 22.

1. See Addl. CITv. S.V. Ratnaswamy and Sons [1977] 106 ITR 154 (Kar.) and Nemichand Rajmal and Co. v. CIT [1982] 138 ITR 703 (Bom.) on continuation of registration. Wazid Ali Abid Aliv. CIT[1988] 169 ITR 761 (SC) on question of signing fresh application for registration where there is a change in its constitution.

2. See also CIT v. B.L Agarwalla [1991] 56 Taxman 21 (Pat.), CIT v. Toolsidass Jewraj[1991] 192 ITR 568 (Cal.), CIT v. India Sea Foods [1991] 192 ITR 515 (Ker.) and Paul Mathews and Co. v. CIT [1991] 98 CTR (Ker.) 12.

## **24A. [Communication regarding partner who is a benamidar**

**:-**

**.<sup>1</sup>** (1) The communication required to be made by any partner of a firm under clause (b) of the Explanation below sub-section (1) of section 185 shall be in Form No. 12A.

(2) The communication referred to in sub-rule (1) shall be made,  
(a) in a case where the firm has not been registered under section 184, before the end of the previous year for the assessment year in respect of which registration of the firm is sought:

Provided that where the registration is sought for the assessment year commencing on the 1st day of April, 1976, the communication may be made before the expiry of the time allowed under sub-section (1) or subsection (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year;

(b) in a case where the registration of the firm has effect under sub-section (7) of section 184 for any assessment year, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year.]

1. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

## **25. Certificate of registration :-**

The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22.

## **PART 6 DEDUCTION OF TAX AT SOURCE**

### **26. Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency. :-**

**<sup>12</sup>**For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in rupees of such income payable to an assessee outside India shall be the telegraphic transfer buying rate of such

currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVIIIB by the person responsible for paying such income.

Explanation : For the purposes of this rule, "telegraphic transfer buying rate", in relation to a foreign currency, means <sup>3</sup>[the rate or rates of exchange] adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency <sup>4</sup> [, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency,] where such currency is made available to that bank through a telegraphic transfer.]

1. Substituted by the IT (Eighth Amtd.) Rules, 1977, w.e.f. 1-11-1977. Original rule 26 was first substituted by the IT (Third Amtd.) Rules, 1967 and was later amended by the IT (Second Amtd.) Rules, 1968.

2. See section 192(6).

3. Substituted for "the rate of exchange" by the IT (First Amtd.) Rules, 1993, w.e.f. 5-1-1993.

4. Inserted, *ibid*.

## **26A. Furnishing of particulars of income under the head "Salaries". :-**

.[<sup>1</sup> (1) The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head "Salaries due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B.

(2) The person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made, a statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof in,

(a) relevant columns provided in Form No. 16, if the amount of salary paid or payable to the employee is not more than one lakh and fifty thousand rupees; or

(b) in Form No. 12BA, if the amount of salary paid or payable to the employee is more than one lakh and fifty thousand rupees.

Explanation - "Salary" for the purposes of this rule shall have the

same meaning as given in rule 3.]

1. Substituted by the IT (Twenty-second Amdt.) Rules, 2001, w.r.e.f. 1-4-2001. Prior to its substitution, rule 26A, as inserted by the IT (Eighth Amdt.) Rules, 1987, w.e.f. 29-10-1987, read as under: 26A. Furnishing of particulars of income under the head "Salaries" received from other employer(s) for deduction of tax at source. The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head "Salaries" due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B. See section 192(2)/(2C).

**26B. [Furnishing of particulars of income under heads of income other than "Salaries" for deduction of tax at source :-**

<sup>1</sup>The assessee may send to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars of any income chargeable under any head of income other than "Salaries" <sup>2</sup> [(not being a loss under any such head other than the loss under the head "Income from house property")], received by the assessee for the same financial year, and of any tax deducted on such income in Form No. 12C.]

1. Inserted by the IT (Eighth Amdt.) Rules, 1987, w.e.f. 29-10-1987. See section 192(2B).

2. Substituted for "(not being a loss under any such head)" by the IT (Fourteenth Amdt.) Rules, 1998, w.e.f. 14-9-1998.

**27. Prescribed arrangements for declaration and payment of dividends within India. :-**

The arrangements referred to in <sup>1</sup> [sections 194 and 236] to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows :

(1) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India, in respect of any assessment year from a date not later than the 1st day of April of such year.

(2) The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any

dividends in respect thereof shall be held only at a place within India.

(3) The dividends declared, if any, shall be payable only within India to all shareholders.

1. Substituted for "sections SOB, 194,195,236 and 286" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996. Prior to its substitution "80B" was inserted by the IT (Second Amdt.) Rules, 1968.

**28. Application for certificates for deduction of tax at lower rates. :-**

[<sup>1</sup>(1) An application by a person <sup>2</sup>[\* \* \*] for a certificate under sub-section (1) of section 197 shall be made in Form No. 13.

(2) An application by a contractor or a sub-contractor for a certificate under subsection (4) of section 194C in respect of income comprised in payments to contractors and sub-contractors shall be made in Form No. 13C.

(3)<sup>3</sup>[\* \* \*]]

<sup>4</sup>[(4) An application by a person for a certificate under sub-section (2) of section 194G shall be made in Form No. 13D.]

<sup>5</sup> [(5) An application by a person for a certificate under sub-section (2) of section 194J shall be made in Form No. 13E.]

1. Substituted by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988. Earlier, rule 28 was amended by the IT (Fifth Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978.

2. Words ", other than a company," omitted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

3. Omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993. Prior to its omission sub-rule (3), as amended by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988, stood as under : "(3) An application by a person, other than a company, for a certificate under the second proviso to section 194 shall be made in Form No. 14."

4. Inserted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

5. Inserted by the IT (Seventeenth Amdt.) Rules, 1995, w.e.f. 1-7-1995.

**28A. Statement by shareholder claiming receipt of dividend without deduction of tax. :-**

<sup>1</sup> [Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.]

1. Prior to its omission, rule 28A, as inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977, read as under : "28A. Statement by shareholder claiming receipt of dividend without deduction of tax.( 1) The statement in writing to be furnished under the first proviso to section 194 shall be in Form No. 14B and shall be verified in the manner indicated therein. (2) The statement referred to in sub-rule (1) shall be furnished in duplicate to the person responsible for paying the dividend."

**28AA. [Certificate of no deduction of tax or deduction at lower rates from income other than dividends :-**

<sup>1</sup>(1) The Assessing Officer, on an application made by a person <sup>2</sup>[under sub-rule (1) of rule 28, may issue a certificate in accordance with the provisions of sub-section (1) of section 197] for deduction of tax at source at the rate or rates calculated in the manner specified below :

(i) at such average rate of tax as determined by the total tax payable on estimated income, as reduced by the sum of advance tax already paid and tax already deducted at source, as a percentage of the payment referred to in section 197 for which the application under sub-rule (1) <sup>3</sup> [\* \* \*] of rule 28 has been made; or

(ii) at the average of the average rates of tax paid by the assessee in the last three years; whichever is higher.

(2) The certificate shall be valid for the assessment year to be specified in the certificate, unless it is cancelled by him at any time before the expiry of the specified period. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.

(3) The certificate shall be valid only for the person named therein.

(4) The certificate shall be issued direct to the person responsible for paying the income under advice to the applicant.

(5) The certificate shall be issued in Form No. 15AA.]

1. Inserted by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988. The certificate will apply only to payments/credits made on or after the date of certificate. No certificate should be issued after the amounts are paid or credited. Circular No. 774, dated 17-3-1999.

For details, see Taxmann's Master Guide to Income-tax Rules.

2. Substituted for ", other than a company, under sub-rule (1) of rule 28, may issue a certificate in accordance with the provisions of clause (a) of sub-section (1) of section 197" by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

3. Words "or sub-rule (3)" omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

## **29. Certificate of no deduction of tax or deduction at lower rates from dividends. :-**

(1) <sup>1</sup>[The Assessing Officer, on being satisfied that the total income of the shareholder justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, shall, on an application made under

(a) The shares in respect of which the certificate is sought for by him

(i) are shares in public companies; and

(ii) stand in his name and are beneficially owned by him, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64, or stand in his name and are held by him under trust wholly for charitable or religious purposes, and the dividends therefrom <sup>2</sup>[are exempt from tax under the provisions of sections 11 to 31].

(b) An application for the certificate is made to the <sup>3</sup>[Assessing Officer] in accordance with sub-rule <sup>4</sup>[(1)] <sup>5</sup>[\* \* \*] of rule 28.

<sup>6</sup>(2) The certificate shall be valid for such period (not exceeding three years from the date of certificate), as the <sup>3</sup> [Assessing Officer] may specify therein, unless it is cancelled by him at any time before the expiry of the specified period. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.

(3) The certificate shall be valid only for the person named therein, and shall cease to be operative from the date of notice to the company of the transfer of any of the shares mentioned therein to another person, in respect of the shares so transferred.

(4) The certificate shall be issued direct to the principal officer of the company under advice to the applicant shareholder.

(5) The certificate shall be issued in Form No. 15.

1. Substituted for the words beginning with "The Assessing Officer"

and ending with the word "namely:" by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993. Prior to their substitution, the said words as substituted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992, read as under: "The Assessing Officer may give a certificate authorising the payment of a dividend, (i) to a shareholder, other than a company, under the second proviso to section 194, (ii) to a shareholder, being a non-resident, under sub-section (1) of section 197, without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely : " These words were earlier amended from time to time by the IT (Amdt.) Rules, 1967, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

2. Substituted for "qualify for deduction under the provisions of section 80F" by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

3. Substituted for "Income-tax Officer" by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

4. Substituted for "(2)", *ibid*.

5. Words "or sub-rule (3), as the case may be," omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

6. Assessee can make an application for a fresh certificate for the succeeding period some time before expiry of the earlier certificate - See Letter F. No. 1(54)-63/TPL, dated 18-5-1963. For details, see Taxmanns Master Guide to Income-tax Rules.

**29A. [Form of certification to be filled with the return of income for claiming deduction under sections 80R, 80RR and 80RRA :-**

.<sup>1</sup> The certificate referred to in sections 80R, 80RR and 80RRA shall be in Form No.10H.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Original rule 29A, as inserted by the IT (Fifth Amdt.) Rules, 1967, was omitted by the IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992.

**29AA. Form of certification to be filled with the return of income for claiming deduction under section 80-O. :-**

[The certificate referred to in second proviso to section 80-O shall be in Form No. 10HA.]



**29B. Application for certificate authorising receipt of interest and other sums without deduction of tax :-**

2.

(1) Any person entitled to receive any interest, or other sum, on which income-tax has to be deducted under sub-section (1) of section 195 may, if he fulfils the conditions specified in sub-rule (2), make an application for the grant of a certificate under sub-section (3) of section 195 authorising him to receive without deduction of tax under sub-section (1) of that section any such income as is specified hereinbelow, namely :

(i) where the person concerned is a banking company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, and which carries on operations in India through a branch, any income by way of interest, not being "interest on securities", or any other sum, not being dividends;

(ii) in the case of any other person who carries on a business or profession in India through a branch, any sum, not being interest or dividends, in so far as such interest or other sum is receivable by such branch on its own account and not on behalf of its head office or any branch situated outside India, or any other person.

(2) The conditions referred to in sub-rule (1) are the following, namely :

(i) the person concerned has been regularly assessed to income-tax in India and has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made;

(ii) he is not in default or deemed to be in default in respect of any tax (including advance tax and tax payable under section 140A), interest, penalty, fine, or any other sum payable under the Act;

(iii) he has not been subjected to penalty under clause (iii) of sub-section (1) of section 271;

(iv) where the person concerned is not a banking company referred to in clause (i) of sub-rule (1)

(a) he has been carrying on business or profession in India continuously for a period of not less than five years immediately preceding the date of the application, and

(b) the value of the fixed assets in India of such business or profession as shown in his books for the previous year which ended immediately before the date of the application or, where the accounts in respect of such previous year have not been made up

before the said date, the previous year immediately preceding that year, exceeds fifty lakhs of rupees.

(3) The application under sub-rule (1) by a banking company shall be in Form No. 15C and by any other person [referred to in clause (ii) of sub-rule (1)] shall be in Form No.15D.

(4) The <sup>2</sup>[Assessing Officer] may give a certificate authorising the person concerned to receive the income specified in clause (i) or clause (ii) of sub-rule (1), without deduction of tax under sub-section (1) of section 195, if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The certificate shall be valid for the financial year specified therein, unless it is cancelled by the <sup>45</sup> [Assessing Officer] at any time before the expiry of the said financial year. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate, or within three months before the expiry thereof.

(6) The certificate shall be in Form No. 15E.]

2. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.ifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **29C. Declaration by person claiming receipt of certain incomes without deduction of tax :-**

[.<sup>1</sup>. <sup>2</sup>(1) [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999]

(2) A declaration under sub-section (1) of section 197A by an individual, who is resident in India, for payment of dividend without deduction of tax under section 194 shall be in Form No. 15G and shall be verified in the manner indicated therein.

<sup>3</sup>[(3) A declaration under sub-section (1A) of section 197A by a person (not being a company or firm) for payment, without deduction of tax at source, of interest on securities under section 193, interest other than "interest on securities" under section 194A or income in respect of units under section 194K, as the case may be, shall be in Form No. 15H and shall be verified in the manner indicated therein.]

<sup>4</sup>[(3A) A declaration under sub-section (1) of section 197A by an individual, being resident in India, for payment of any amount referred to in clause (a) of sub-section (2) of section 80CCA without

deduction of tax under section 194EE shall be in Form No. 15-1 and shall be verified in the manner indicated therein.]

(4) The declaration referred to in sub-rule (1) or sub-rule (2) or sub-rule (3)<sup>49</sup> [or sub-rule (3A)] shall be furnished in duplicate to the person responsible for paying the "interest on securities" or dividend or <sup>5</sup>[interest other than "interest on securities" or, <sup>6</sup>[income in respect of units], as the case may be, any amount referred to in clause (a) of sub-section (2) of section 80CCA.]

(5) The person referred to in sub-rule (4) shall deliver or cause to be delivered to the <sup>7</sup>[Chief Commissioner or Commissioner] one copy of the declaration referred to in sub-rule (1) or sub-rule (2) or <sup>8</sup>[sub-rule (3) or, as the case may be, sub-rule (3A)] on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Explanation: For the purposes of sub-rule (5), <sup>9</sup>[Chief Commissioner or Commissioner] means the <sup>9</sup>[Chief Commissioner or Commissioner] to whom the <sup>11</sup> [Assessing Officer] having jurisdiction to assess the person referred to in sub-rule (4) is subordinate.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1982, w.e.f. 21-6-1982. See also Circular No. 351, dated 26-11-1982. If declaration is found defective, Assessing Officer should give the tax deductor opportunity to rectify the defect. Vijay Hemant Finance and Estates Ltd. v. ITO [1999] 238 ITR 282 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

2. Prior to its omission, sub-rule (1) read as under : (1) A declaration under sub-section (1) of section 197A by an individual, who is resident in India, for payment of "interest on securities" without deduction of tax under section 193 shall be in Form No. 15F and shall be verified in the manner indicated therein.

3. Substituted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999. Prior to its substitution, sub-rule (3), as substituted by the IT (Seventh Amdt.) Rules, 1995, w.e.f. 1-7-1995 and amended by the IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992, read as under : (3) A declaration under sub-section (1A) of section 197A by a person (not being a company or firm) for payment of interest other than "interest on securities" without deduction of tax at source under section 194A or income in respect of units without deduction of tax at source under section 194K, as the case may be, shall be in Form No. 15H and shall be verified in the manner indicated therein.

4. Inserted by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-

1991.

5. Substituted for , as the case may be, interest other than "interest on securities" , ibid.

6. Inserted by the IT (Seventh Amdt.) Rules, 1995, w.e.f. 1-7-1995.

7. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

8. Substituted for", as the case may be, sub-rule (3)" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

9. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

11. Substituted for "Income-tax Officer", ibid.

**30. Time and mode of payment to Government account of tax deducted at source. :-**

**1.**

**2**[(1) All sums deducted in accordance with the provisions of sections 192 to 194, **3**[section 194A, section 194B, **4**[section 194BB,] section 194C] 60 [,section 194D, section 194E, **5**[section 194EE, section 194F, section 194G, section 194H, **6**[section 194-1,] **7**[section 194J, section 194K,] section 195, section 196A **8**[, section 196B **9**[, section 196C and section 196D]]]] shall be paid to the credit of the Central Government

(a) in the case of deduction by or on behalf of the Government, on the same day;

(b) in all other cases,

**10**[(i) in respect of sums deducted in accordance with the provisions of **11**[section 193, section 194A, section 194C, **12**[section 194D, section 194E, **13**[section 194G, section 194H, **14**[section 194-I,] **15**[section 194J, section 194K,] section 195, section 196A **16**[, section 196B **17**[, section 196C and section 196D]]]]]

(1) **18**[where the income by way of interest on securities referred to in section 193 or the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D] **19**[or the payment to non-resident sportsmen or sports associations referred to in section 194E **20**[or the income by way of commission,

remuneration or prize on sale of lottery tickets referred to in section 194G or the income by way of commission or brokerage referred to in section 194H <sup>2114</sup>[or the income by way of rent referred to in section 194-I]<sup>15</sup>[or the income by way of fees for professional or technical services referred to in section 194]] or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in <sup>24</sup>[or the income from foreign currency bonds or shares of an Indian company referred to in section 196C <sup>25</sup>[or the income of Foreign Institutional Investors from securities referred to in section 196D]]] is credited by a person <sup>26</sup>[to the account of the payee as on the date up to which the accounts of such person] are made, within two months of the expiration of the month in which that date falls;

(2) in any other case, within one week from the last day of the month in which the deduction is made; and]

(ii) in respect of sums deducted in accordance with the other provisions, <sup>27</sup>[\* \* \*] within one week from the date of such deduction :

Provided that the <sup>28</sup>Assessing Officer] may, in special cases, and with the approval of the <sup>29</sup>[Deputy Commissioner]

(a) in cases falling under clause (i), permit any person to pay the income-tax <sup>30</sup>[\* \* \*] deducted from any income by way of interest, other than <sup>31</sup>[income by way of interest on securities] or any income by way of insurance commission <sup>32</sup>[or any income by way of commission or brokerage referred to in section 194H] quarterly on July 15, October 15, January 15 and April 15, and

(b) in cases falling under clause (ii), permit an employer to pay income-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15, September 15, December 15 and March 15.]

(2) The person responsible for making the deduction from any income chargeable under the head "Salaries" or, in cases covered by sub-section (5) of section 192, the trustees shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into <sup>33</sup>[any <sup>34</sup>[\* \* \*]: <sup>35</sup>[\* \* \*]

Provided <sup>36</sup>[\* \* \*] that where the deduction is made by or on behalf of Government, the amounts shall be credited within the time and in the manner aforesaid without the production of a challan.

(3) The person responsible for making deduction under sections

**37**[193,194,**38**[194A, 194B, **39**[194BB,] 194C,] **40**[194D, 194E, **41**194E, 194F, 194G, 194H.**42**[194-I,] **43**[194J, 194K,] 195, 196A **44**[, 196B **45**[, 196C and 196D]]]] shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into **46**[any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank] accompanied by an income-tax challan, **47** [\* \* \*]: provided that where the deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without the production of a challan.

1. See section 200.
2. Substituted by the IT (Fifth Amdt.) Rules, 1967.
3. Substituted for "section 194A" by the IT (Third Amdt.) Rules, 1972.
4. Inserted by the IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978.
5. Substituted for "section 195 and section 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.
6. Inserted by the IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994.
7. Inserted by the IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995.
8. Substituted for "and section 196B" by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.
9. Substituted for "and section 196C" by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.
10. Substituted by the IT (Third Amdt.) Rules, 1972. Sub-clause (i) was first substituted by the IT (Second Amdt.) Rules, 1968.
11. Substituted for "section 194A, section 194C and section 194D" by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990. Earlier these words were substituted by the IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973.
12. Substituted for "section 194D and section 195" by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991. Earlier it was amended by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990.
13. Substituted for "section 195 and section 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f, 1-10-1991.
14. Inserted by the IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-

1994.

15. Inserted by the IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995.

16. Substituted for "and section 196B" by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.

17. Substituted for "and section 196C" by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

18. Substituted for "where the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D" by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990. Earlier certain words were inserted by the IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973.

19. Substituted for "or the interest or any other sum referred to in section 195" by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991.

20. Substituted for "or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

21. Section 194H was earlier omitted by the Finance Act, 1999 with effect from 1-4-2000. Now it has been reintroduced by the Finance Act, 2001, w.e.f. 1-6-2001.

24. Inserted by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.

25. Inserted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

26. Substituted for "carrying on a business or profession to the account of the payee as on the date up to which the accounts of such business or profession" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.

27. Words "within one week from the date of receipt of the challan by the person making the deduction, who shall make an application to the Assessing Officer" omitted by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990. Prior to omission amendments were made by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

28. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

29. Substituted for "Inspecting Assistant Commissioner" by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.
30. Words "and super-tax" omitted by the IT (Amdt.) Rules, 1967.
31. Substituted for income chargeable under the head "Interest on securities" by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990. Earlier, clause (a) was also amended by the IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973.
32. Inserted by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.
33. Substituted for "the Government Treasury or office of the Reserve Bank of India or of the State Bank of India" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
34. Words "blank copies of which shall be supplied by the Assessing Officer on request for the purpose" omitted by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990.
35. Omitted, *ibid.* Prior to its omission first proviso read as under : "Provided that on receipt of the statement or the certificate referred to in rule 32 or the return referred to in rule 33 the Assessing Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary challans prepared and forwarded to the person concerned, who shall thereupon pay the amount to the credit of the Central Government in the manner above described." Earlier it was amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.
36. Word "further" omitted by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990.
37. Substituted for "193, 194 and 195" by the IT (Fifth Amdt.) Rules, 1967.
38. Substituted for "194A" by the IT (Third Amdt.) Rules, 1972.
39. Inserted by the IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978.
40. Substituted for "194D and 195" by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991. Earlier it was amended by the IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973.
41. Substituted for "195 and 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.
42. Inserted by the IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994.
43. Inserted by the IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-



1995.

44. Substituted for "and 196B" by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.

45. Substituted for "and 196C" by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

46. Substituted for "the Government Treasury or office of the Reserve Bank of India or of the State BANK of India" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.

47. Words "blank copies of which will be supplied by the Assessing Officer on request for the purpose" omitted by the IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990,

**30A. Credit for tax deducted at source to a person other than the shareholder in certain circumstances :-**

**1** [\*\*\*]

Rule 30A shall be Omitted by the Income Tax (Twenty-fourth) Amendment Rules, 2003, w.e.f. 1st, Oct, 2003. Prior to its omission, rule 30A, as inserted by the IT (Sixth Amdt.) Rules, 1968 and amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under : "30A. Credit for tax deducted at source to a person other than the shareholder in certain circumstances.- (1) Subject to the provisions of sub-rule (2), where the dividend on any share is assessable as the income of a person other than the shareholder, any deduction made in accordance with section 194 and paid to the Central Government, shall be deemed to be a payment of tax on behalf of, and the credit in respect thereof shall be given to, such other person in the circumstances specified below, namely :- (i) where a company has a right to appoint any person or persons, or where any nominee or nominees of the company has or have been appointed, as a director or directors of any other body corporate, and shares owned by such company in such other body corporate, to an amount not exceeding the nominal value of the shares which are required to be held by a director thereof, are registered in the name of any such person or nominee; (ii) where a company owns any shares in its subsidiary and such shares are registered in the name or names of any nominee or nominees of the company, if and in so far as it is necessary so to do, to ensure that the number of members of the subsidiary is not reduced, where it is a public company, below seven, and where it is a private company, below two ; (iii) where a corporation established by or under a Central, State or Provincial Act owns any shares in a company and such shares are registered in the name or names of

any nominee or nominees of the corporation in the circumstances specified in clause (i) or clause (ii); (iv) where any person deposits, with any bank, including a co-operative bank or a land mortgage bank, any shares owned by him, for the collection of dividends thereon and such shares are registered in the name of the bank; (v) where any person deposits with any other person any shares owned by him, by way of security for the repayment of any loan or the performance of any obligation and such shares are held by, or on behalf of, any of the following, namely :- (a) the Government or the Reserve Bank of India or any body corporate owned by the Government, or the Reserve Bank of India, or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank; (b) a local authority; (c) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or any of its subsidiary banks; (d) any banking company, including a co-operative bank or a land mortgage bank; (e) the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India Ltd., the Madras Industrial and Investment Corporation of India Ltd., and the Refinance Corporation for Industry Ltd.; (f) a State Financial Corporation established under the State Financial Corporations Act, 1951 (63 of 1951); (g) an Industrial Development Corporation established in India by a State Government; (h) the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956); (i) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964); (vi) where shares are held by a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913)] and the dividend thereon is received by the trustee on behalf of, or for the benefit of, any person who is a beneficiary of the trust; (vii) where the shares owned by a firm are held in the name of any of its partners; (viii) where the shares owned by a Hindu undivided family are held in the name of the karta or any other adult member of the family; (ix) where the shares have been sold or otherwise transferred by the registered shareholder and action for registering the transfer in the name of the purchaser or other person has been taken in accordance with the provisions of section 108 of the Companies Act, 1956 (1 of 1956); (x) where the shares owned by a member of a recognised Stock Exchange in India deposited with the Stock Exchange in accordance with the regulations of the Exchange are registered in the names of the trustees of the Exchange or the bankers of the Exchange. (2) The credit referred to in sub-rule (1) shall not be given unless the person entitled to such credit furnishes to the Assessing Officer a declaration in Form No. 15B made by him and the shareholder concerned, together with a certificate of deduction of tax at source in Form No. 19."

### **31. Certificate of tax deducted at source :-**

[<sup>12</sup>.

<sup>3</sup>[(1) The certificate of deduction of tax at source under section 203 to be furnished by any person deducting tax in accordance with the provisions of-

(a) section 192 shall be in Form No. 16<sup>4</sup>;

<sup>5</sup>[(B) section 193, section 194, section 194A, section 194B, section 194BB, section 194C, section 194D, section 194E, section 194EE, section 194F, section 194G, <sup>6</sup>[section 194-1,]<sup>7</sup>[section 194J, section 194K,]section 195, section 196A, section 196B, section 196C and section 196D shall be in Form No. 16A.]

(2) <sup>8</sup>[\* \* \* ]

(3) The certificate mentioned in sub-rule (1) shall be furnished within a period of <sup>9</sup>[one month from the end of the month during which the credit has been given or the sums have been paid or, as the case may be, a cheque or warrant for payment of any dividend has been issued to a shareholder]:

Provided that <sup>10</sup>[where the income by way of interest on securities referred to in section 193 or the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D or the payment to non-resident sportsmen or sports associations referred to in section 194E <sup>11</sup>[or the income by way of commission, remuneration <sup>12</sup>[or the income by way of rent referred to in section 194-1] <sup>13</sup>[or the income by way of fees for professional or technical services referred to in section 194J] or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A or the income from units referred to in section 196B <sup>14</sup>[or the income from foreign currency bonds or shares of an Indian company referred to in section 196C <sup>15</sup>[or the income of Foreign Institutional Investors from securities referred to in section 196D]]]] is credited by a person <sup>16</sup>[to the account of the payee as on the date up to which the account of such person] are made, the certificate under sub-rule (1) shall be issued within a week after the expiry of two months from the month in which income is so credited :

Provided further that the certificate in the case of deduction of tax under section 192 <sup>17</sup>[or section 194D] may be furnished within one

month from the close of the financial year in which such deduction was made :

**18**[Provided also that the certificate in cases, other than those mentioned in the second proviso, where payment of income-tax deducted is permitted quarterly in accordance with clause (a) of the proviso to clause (b) of sub-rule (1) of rule 30 may be furnished within fourteen days from the date of payment of income-tax :]

**19**[Provided also that where more than one certificate is required to be furnished to a payee for deductions of income-tax made during a financial year, the person deducting the tax, may on 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.]

(4) Where in a case, the TDS certificate issued under this rule is lost, the person deducting tax at source may issue a duplicate certificate of deduction of tax at source on a plain paper giving necessary details as contained in Form No. 16 **20**[or Form No. 16A **21**[\* \* \*], as the case may be],

(5) The Assessing Officer before giving credit for the tax deducted at source on the basis of duplicate certificate referred to in sub-rule (4), shall get the payment certified from the **22** [Assessing Officer] designated in this behalf by the Chief Commissioner or the Commissioner and shall also obtain an Indemnity Bond from the assessee.]

1. Substituted by the IT (Ninth Amdt.) Rules, 1988, w.e.f. 1-4-1989. Earlier it was amended by the IT (Fifth Amdt.) Rules, 1967; IT (Third Amdt.) Rules, 1972; IT (Third Amdt.) Rules, 1973 and IT (Fifth Amdt.) Rules, 1978.

2. See Circular No. 664, dated 29-9-1993.

3. Substituted by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991. Prior to its substitution sub-rule (1) read as under: "(I) The certificate of deduction of tax at source under section 203 to be furnished by any person deducting tax in accordance with the provisions of sections 192 to 194, section 194A, section 194B, section 194BB, section 194C, section 194D and section 195 shall be in Form No. 16."

4. For use of Form 16 by pensioners, see Circular No. 761, dated 13-1-1998.

5. Substituted for clauses (b) and (c) by the IT (Eleventh Amdt.) Rules, 1993, w.e.f. 1-7-1993. Prior to substitution, clauses (b) and (c), as amended by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-

10-1991, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992 and IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, stood as under : "(b) section 193, section 194, section 194A [in so far as it relates to interest on time deposits referred to in clauses (vii) and (viiia) of sub-section (3) of this section], section 194D, section 194EE, section 194F, section 194G, section 194H, section 196B, section 196C and section 196D shall be in Form No. 16A; (c) section 194A [other than in the case of interest on the time deposits referred to in clauses (vii) and (viiia) of sub-section (3) of this section], section 194B, section 194BB, section 194C, section 194E, section 195 and section 196A shall be in Form No. 16B."

6. Inserted by the IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994.

7. Inserted by the IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995.

8. Omitted by the IT (Eleventh Amdt.) Rules, 1993, w.e.f. 1-7-1993. Prior to omission, sub-rule (2), as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, read as under : "(2) The certificate mentioned in clause (c) of sub-rule (1) shall be issued on a paper serially numbered and printed by the Central Government in book form and supplied for a consideration to the person deducting tax at source on an application made by him in Form No. 17 to the Chief Commissioner or Commissioner having jurisdiction over him in this regard : Provided that the Chief Commissioner or Commissioner may waive such stipulation in the case of companies including public sector companies which have adopted computerisation for furnishing such certificate."

9. Substituted for "one month and fourteen days from the date of credit or payment of the sum, or, as the case may be, from the date of issue of a cheque or warrant for payment of any dividend to a shareholder" by the IT (Third. Amdt.) Rules, 1996, w.e.f. 2-7-1996. Earlier the italicised words were amended by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

10. Substituted by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, for the following : "where the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D."

11. Substituted for "or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

12. Inserted by the IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994.

13. Inserted by the IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995.
14. Inserted by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.
15. Inserted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.
16. Substituted for "carrying on a business or profession to the account of the payee as on the date up to which the accounts of such business or profession" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.
17. Inserted by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991.
18. Inserted by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.
19. Inserted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.
20. Inserted by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991.
21. Words "or Form No. 16B" omitted by the IT (Eleventh Amdt.) Rules, 1993, w.e.f. 1-7-1993.
22. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**32. Monthly statement or certificate of deduction of tax from "Salaries". :-**

. <sup>1</sup> [Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.]

1. Prior to its omission, rule 32, as substituted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and later amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under: 32. Monthly statement or certificate of deduction of tax from Salaries. (1) In the case of income chargeable under the head "Salaries" where deduction is made except by or on behalf of Government, the person responsible for paying the income shall send to the Assessing Officer specified in sub-rule (2) : (a) a statement in Form No. 21 in respect of salaries paid in the case of an employee leaving service; and (b) a monthly certificate of deduction of tax from "Salaries" in Form No. 23, and such statement or monthly certificate shall be furnished (i) in a case falling under clause (a), within one month from the end of the month in which the employee

leaves service; (ii) in a case falling under clause (b), within one month from the end of the month in which the tax is deducted. (2) The statement or certificate referred to in sub-rule (1) shall be sent to (i) the Assessing Officer so designated by the Chief Commissioner or Commissioner of Income-tax within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated; or (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated.

**33. Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund. :-**

<sup>1</sup>(1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his lifetime, they shall <sup>2</sup>[send within two months from the end of the financial year to the Assessing Officer referred to in rule 36A a return in Form No. 22.]

<sup>3</sup> (2) [Omitted by the IT (Sixth Amdt.) Rules, 1988. w.e.f. 12-7-1988.]

1. See rule 6 of Part B of the Fourth Schedule.

2. Substituted for "forthwith send to the Assessing Officer specified in sub-rule (2) of rule 32, a return in Form No. 22" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996. Prior to their substitution, the quoted words were amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Prior to its omission, sub-rule (2) stood as under : "(2) The provisions of sub-rule (3) of rule 32 shall apply in relation to the return referred to in sub-rule (1) as they apply in relation to the return referred to in sub-rule (1) of rule 32."

**34. Return in lieu of monthly return under rule 32. :-**

<sup>1</sup> . [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

1. Prior to its omission, rule 34 stood as under : In the case of income chargeable under the head "Salaries" where deduction is made except by or on behalf of Government, the Commissioner may, in his discretion, waive the requirement of rule 32 regarding the submission of the detailed monthly return subject to the following conditions and any other condition which he may prescribe : (i) a certificate in Form No. 23 shall be furnished to the

Income-tax Officer mentioned in sub-rule (2) of rule 32 immediately after the end of each month; (ii) in the case of an employee leaving service, the particulars in Form No. 21 shall be sent forthwith to the Income-tax Officer aforesaid.

**35. Annual return of salaries paid and tax deducted therefrom. :-**

<sup>1</sup> . [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

1. Prior to its omission, rule 35 stood as under : (1) The return to be delivered to the Income-tax Officer under sub-section (1) of section 206 within thirty days from the 31st day of March in each year shall be prepared in Form No. 24 and shall be verified in the manner indicated therein. (2) The return referred to in sub-rule (1) shall be delivered to the Income-tax Officer specified in sub-rule (2) of rule 32. (3) The provisions of sub-rule (3) of rule 32 shall apply in relation to the return referred to in sub-rule (1) as they apply in relation to the return referred to in sub-rule (1) of rule 32. (4) The minimum income under the head "Salaries" referred to in clause (a) of sub-section (1) of section 206 shall be Rs. 600 less than the maximum amount which, if it were the total income, would be exempt from tax in the hands of an individual in the financial year in which the income is earned : Provided that in any case in which any tax was deducted at source from payments chargeable under the head "Salaries" full particulars thereof shall be included in the return prescribed in sub-rule (1).

**36. Prescribed persons for section 206. :-**

.

<sup>1</sup> [(1)] In the case of offices of the Government the return under <sup>2</sup> [\* \* \*] section 206 shall be furnished by

(a) Civil Audit Officers/Pay and Accounts Officers for all Gazetted Officers and others who draw their pay from Audit Offices/Pay and Accounts Offices on separate bills ; and also for all pensioners who draw their pensions from audit offices ;

(b) Treasury Officers for all Gazetted Officers and others who draw their pay from treasuries on separate bills without counter-signature and also for all pensioners who draw their pensions from treasuries ;

<sup>3</sup> [(c) Heads of Civil or Military offices for all Gazetted Officers and others, except those referred to in clause (b), and all non-gazetted officers, whose pay is drawn on establishment bills or on bills



countersigned by the Head of Office ;]

(d) Forest Disbursing Officers and Public Works Department Disbursing Officers in cases where direct payment from treasuries is not made, for themselves and their establishments ;

(e) Head Postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them, and (ii) gazetted supervising and controlling officers of whose headquarters post office they are in charge, and (iii) pensioners drawing their pensions through post offices ; head record clerks for themselves and all the staff whose pay is drawn in their establishment pay bills ; Divisional Engineers in respect of Telegraph and Telephone Engineering Divisions ; Accounts Officers, Stores and Workshops for the Stores and

(f)

(i) Controllers of Defence Accounts for Defence Services Officers and others including civilian gazetted officers under their payment control;

(ii) Officer Commanding Air Force Central Accounts Office, New Delhi for Air Force Officers and others for whom IRLAs are maintained by them ;

(iii) Supply Officer-in-charge, Naval Pay Office, Bombay for navy officers and ratings for whom IRLAs are maintained by them ;

(iv) Chief Accounting Officer, London for Defence Services Personnel serving in or attached to High Commission in UK ;

(g) The Financial Advisor and Chief Accounts Officer/Deputy Financial Advisor and Chief Accounts Officer of the Railways concerned for all railway employees including the employees of the Railway Audit Department under their payment control;

(h) Heads of Offices in the Missions and Posts abroad for themselves and for all gazetted and other officers under their administrative control;

(i) Trade Commissioners abroad, wherever their establishments are independent of the Missions, for themselves and for all gazetted and other officers under their administrative control;

(j) The Chief Accounts Officers, India Supply Mission, Washington, and India Stores Department, London for themselves and for the gazetted and other officers under their administrative control;

(k) The Directors/Managers of the tourist offices abroad, for themselves and for the gazetted and other officers under their administrative control.

<sup>4</sup>[(2) In the case of a local authority or any other public body or association, the return under section 206 shall be furnished by

(a) the secretary, treasurer, manager or agent of the authority, public body or association, or  
(b) any person connected with the management or administration of the local authority, public body or association upon whom the <sup>5</sup> [Assessing Officer] has served a notice of his intention of treating him as the person responsible for filing the return.]

1. Inserted by the IT (Sixth Amtd.) Rules, 1988, w.e.f. 12-7-1988.
2. Words "sub-section (1) of omitted, ibid.
3. Substituted by the IT (Amtd.) Rules, 1980, w.e.f. 19-1-1980.
4. Inserted by the IT (Sixth Amtd.) Rules, 1988, w.e.f. 12-7-1988.
5. Substituted for "Income-tax Officer" by the IT (Fifth Amtd.) Rules, 1989, w.r.e.f. 1-4-1988.

**36A. Prescribed persons for section 206. :-**

**37. Prescribed returns regarding tax deducted at source under section 206. :-**

[<sup>1</sup>. Every person, being a person responsible for deducting tax under Chapter XVII-B shall, in respect of a previous year, deliver or cause to be delivered to the <sup>2</sup> [Assessing Officer] referred to in rule 36A, the returns mentioned in column (1) of the Table below in Form No. specified in the corresponding entry in column (2) of the said Table by the end of the month falling in the financial year immediately following the previous year as specified in the corresponding entry in column (3) of the said Table : TABLE

Sl. No.	Nature of returns	Form No.	Month
1.	Annual return of deduction of tax under section 192	24	^ [May] from "Salaries"
2.	Annual return of deduction of tax under section 193	25	"[June] from "Interest on securities"
3.	Annual return of deduction of tax under section 194	26	April from "Dividends" "[or under section 194K. from "Income in respect of units"]
4.	Annual return of deduction of tax under section 26A	"[June] 194A	from "Interest other than interest on securities"
S/. No.	Nature of returns	Form No.	Month
(1)	(2)	(3)	(3)
5.	Annual return of deduction of tax under section 194B	26B	May from "Winnings from lotteries or crossword puzzles"
6.	Annual return of deduction of tax under section 194BB	26BB	May from "Winnings from horse races"
7.	Annual return of		

deduction of tax under section 194C 26C "[June] from "Payments to any contractor or sub-contractor" 8. Annual return of deduction of tax under section 26D June 194D from "Insurance commission" 9. T " ] "[10. Annual return of deduction of tax under section 26F June 194EE from "Payments in respect of deposits under National Savings Scheme, etc." 11. Annual return of deduction of tax under section 26G June 194F from "Payments on account of repurchase of units by Mutual Fund or Unit Trust of India" 12. Annual return of deduction of tax under section 194G 26H June] from "Commission, etc., on sale of lottery tickets" "[13. Annual return of deduction of tax under section 194H 26-1 June} from commission or brokerage " [14. Annual return of deduction of tax under section 26J June] 194-1 from "Rent" ^[15. Annual return of deduction of tax under section 194J 26K June.] from "fees for professional or technical services"

1. Rules 37 and 37A were substituted for rule 37 by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988. Prior to its substitution, original rule 37, as amended by the IT (Fifth Amdt.) Rules, 1967, IT (Second Amdt.) Rules, 1970, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973 and IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, stood as under : 37. Returns regarding tax deducted at source in other cases.(1) In the case of income chargeable under the head "Interest on securities" where the deduction is not made by or on behalf of the Government, the person making deduction of tax under section 193 shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 25. (2) The person making deduction of tax in accordance with section 194 from dividends shall within fourteen days of the date of deduction send to the Income-tax Officer assessing the company a statement in Form No. 26. (2A) The person making deduction of tax in accordance with section 194A from income by way of interest other than income chargeable under the head "Interest on securities" shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26A quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter : Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made. (2B) The person making deduction of tax in accordance with section 194B from income by way of winnings from lottery or crossword puzzle shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26B quarterly on July 15th, October 15th, January 15th and April 15th in respect of the

deduction made by him during the immediately preceding quarter. (2BB) The person making deduction of tax in accordance with section 194BB from income by way of winnings from horse race shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26BB quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter. (2C) The person making deduction of tax in accordance with section 194C from payments made to any contractor or sub-contractor shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26C quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter : Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made. (2D) The person making deduction of tax in accordance with section 194D from income by way of insurance commission shall send to the Income-tax Officer having jurisdiction to assess him (a) a certificate in Form No. 26D quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter : Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the certificate relating to the quarter next following the quarter in which the deduction is made ; (b) a statement in Form No. 26E on or before the 30th day of June in each year in respect of the deduction made by him during the immediately preceding financial year ; (c) a statement in Form No. 26F on or before the 30th day of June in each year in respect of the insurance commission credited or paid during the immediately preceding financial year without deduction of tax. (3) The person making deduction of tax in accordance with sections 193, 194 and 195 from any payment made to (i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or (d) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 27.

2. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**37A. Returns regarding tax deducted at source in the case of non-residents. :-**

. The person making deduction of tax in accordance with sections

193, <sup>1</sup>[194, 194E, 195 <sup>2</sup>[, 196A<sup>3</sup>[, 196B <sup>4</sup>[, 196C and 196D]]]]of the Act from any payment made to

(i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India ;

<sup>5</sup>[shall send within fourteen days from the end of the quarter a statement in Form No. 27] to the <sup>6</sup>[Assessing Officer] referred to in rule 36A :]

<sup>7</sup>[Provided that where the income by way of interest on securities referred to in section 193 or the payment to non-resident sportsmen or sports associations referred to in section 194E or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A <sup>8</sup>[or the income from units referred to in section 196B] <sup>9</sup>[or the income from foreign currency bonds or shares of an Indian company referred to in section 196C] <sup>10</sup>[or the income of Foreign Institutional Investors from securities referred to in section 196D] is credited by a person <sup>11</sup> [to the account of the payee as on the date up to which the accounts of such person] are made, the statement in Form No. 27 shall be sent within fourteen days after the expiry of two months from the month in which income is so credited.]

1. Substituted for "194 and 195" by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991.

2. Substituted for "and 196A" by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

3. Substituted for "and 196B" by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.

4. Substituted for "and 196C" by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

5. Substituted for "shall within fourteen days of the date of deduction send a statement in Form No. 27" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.

6. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

7. Inserted by the IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991.

8. Inserted by the IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991.

9. Inserted by the IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992.

10. Inserted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

11. Substituted for "carrying on a business or profession to the account of the payee as on the date up to which the accounts of such business or profession" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.

**37AA. Return of interest paid to residents without deduction of tax. :-**

<sup>1</sup> [Omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997.]

1. Prior to its omission rule 37AA, as inserted by the IT (Fifth Amdt.) Rules, 1967, and later on amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under : "37AA. Return of interest paid to residents without deduction of (ox.The return to be delivered to the Assessing Officer under section 206A, within 30 days from the 31st day of March in each year, shall be prepared in Form No. 27A and shall be verified in the manner indicated therein."

**37B. [Returns regarding tax deducted at source on computer media under sub-section (2) of section 206. :-**

<sup>1</sup> (1) Where a person responsible for deducting the tax under Chapter XVII-B desires to file any return or statement referred to in rule 37 or rule 37A on a computer media, he shall deliver or cause to be delivered to the Assessing Officer referred to in rule 36A such return or statement on a computer media within the time specified under rule 37 or rule 37A, as the case may be.

(2) The return or statement filed on a computer media must contain all the information required under rule 37 or rule 37A, as the case may be.

(3) The computer media must conform to the following specifications : (a) CD ROM of 650 MB capacity; (b) 4mm 2 GB/4GB (90M/120M) DAT Cartridge; or (c) 3.5" 1.44 MB floppy diskette.

- (4) While filing the return or statement on a computer media, the person responsible for deducting the tax shall ensure that:
- (i) the return or statement is accompanied with Form No. 27A furnishing the information specified therein;
  - (ii) in no case, more than one return or statement is included on one unit of computer media. However, a single return or statement may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return or statement, then each computer media will be serially numbered;
  - (iii) if the data relating to a return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
  - (iv) the return or statement is accompanied with a certificate regarding clean and virus free data.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1999, w.e.f. 30-3-1999. Earlier original rule 37B, was inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and thereafter omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997.

## **PART 6A COLLECTION OF TAX AT SOURCE**

### **37C. Certificate for no collection of tax at source under section 206C(1). :-**

- (1) The certificate to be given by the Assessing Officer to the effect that any of the goods referred to in the Table in sub-section (1) of section 206C are to
- (2) The certificate given under sub-rule (1) shall be valid for such period (not exceeding one year from the date of certificate) as the Assessing Officer may specify therein, unless it is cancelled by him at any time before the expiry of the specified period.
- (3) An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.
- (4) The certificate shall be valid only for the person named therein.

### **37D. Certificate for collection of tax at source under section 206C(5). :-**

. The certificate to be furnished by any person collecting tax at source under sub-section (5) of section 206C shall be in Form No. 27D.]<sup>1</sup>[Prescribed returns regarding tax collected at source under section 206C(5A). 37E. Every person collecting tax in accordance with the provisions of section 206C shall, in respect of the period ending on 30th September and 31st March in each financial year, deliver or caused to be delivered to the Income-tax Officer referred to in rule 37F, the returns mentioned in column (1) of the Table below in Form No. specified in the corresponding entry in column (2) of the said Table within one month from the end of the period for which the return mentioned in column (1) of the Table is required to be filed : <sup>2</sup> [TABLE Sl. No. Nature of Returns Form No. 1. Half-yearly return of collection of tax under section 206C from 27EA the buyers of alcoholic liquor for human consumption (other than Indian made foreign liquor) and tendu leaves. 2. Half-yearly return of collection of tax under section 206C from 27EB buyers of timber obtained under a forest lease. 3. Half-yearly return of collection of tax under section 206C from 27EC buyers of timber obtained by any mode other than under a forest lease. 4. Half-yearly return of collection of tax under section 206C from 27ED]] buyers of any other forest produce not being timber or tendu leaves.

1. Inserted by the IT (Third Amdt.) Rules, 1990, w.e.f. 19-2-1990.

2. Substituted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Prior to its substitution, the Table, as inserted by the IT (Third Amdt.) Rules, 1990, w.e.f. 19-2-1990, read as under : "TABLE Sl. No Nature of Returns Form No. 1. Half-yearly return of collection of tax under section 206C 27EA from buyers of alcoholic liquor for human consumption. 2. Half-yearly return of collection of tax under section 206C 27EB from buyers of timber obtained under a forest lease. 3. Half-yearly return of collection of tax under section 206C 27EC from buyers of timber obtained by any mode other than under a forest lease. 4. Half-yearly return of collection of tax under section 206C 27ED" from buyers of any other forest produce not being timber.

**37EA. Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C :-**

[. <sup>1</sup> .

(1) Where a person responsible for collecting the tax under Chapter XVII-BB of the Act desires to file any return of the nature referred



to in rule 37E on a computer media, he shall deliver or cause to be delivered to the Income-tax Officer referred to in rule 37F such return on a computer media within the time specified under rule 37E.

(2) The return filed on a computer media shall be in the Form No. 27EA or Form No. 27EB or 27EC or 27ED, as the case maybe, and contain all the information, details and particulars specified in such Forms.

(3) The computer media shall conform to the following specifications, namely : (a) CD ROM of 650 MB capacity; or (b) 4mm 2 GB/4GB (90M/120M) DAT Cartridge; or (c) 3.5"1.44 MB floppy diskette.

(4) While filing the return on a computer media, the person responsible for collecting the tax shall ensure that:

(i) such return is accompanied with Form No. 27B and verified in the manner indicated therein;

(ii) only one return is included on one unit of computer media. However, a single return may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return, then each computer media will be serially numbered;

(iii) in a case where the data relating to a return is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished alongwith the computer media return;

(iv) the return is accompanied with a certificate regarding clean and virus free data.]

1. Inserted by the IT (Twenty-fifth Amdt.) Rules, 1999, w.e f 2-7-1999

### **37F. Income-tax authority for purposes of section 206C(5A)**

:-

<sup>1</sup> The return referred to in rule 37E shall be furnished to :

(i) the Income-tax Officer so designated by the Chief Commissioner or Commissioner of Income-tax within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated ; or

(ii) in any other case, to the Income-tax Officer within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated.]

1. Inserted by the IT (Third Amdt) Rules, 1990, w.e.f 19-2-1990.

**37G. Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C. :-**

<sup>1</sup> . An application by a buyer for a certificate under sub-section (9) of section 206C shall be made in Form No. 27F.

1. Rules 37G and 37H inserted by the IT(Twenty-third Amdt.) Rules, 1999, w.e.f. 29-6-1999.

**37H. Certificate for collection of tax at lower rates from buyer under sub-section (9) of section 206C. :-**

(1) Where the Assessing Officer is satisfied that the total income of the buyer justifies the collection of tax at any lower rate than the relevant rate specified in sub-section (1) of section 206C, he shall, on an application made by the buyer under rule 37G, give to him a certificate in Form No. 27G for collection of tax at such lower rate than the relevant rate specified in sub-section (1) of that section.

(2) The certificate given under sub-rule (1) shall be valid for the assessment year specified in that certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

(3) An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate given under sub-rule (1).

(4) The certificate shall be valid only for the person named therein.

(5) The certificate shall be issued direct to the person responsible for collecting the tax under advice to the buyer who made an application for issue of such certificate.]

**PART 7 PAYMENT OF ADVANCE TAX**

**38. Notice of demand :-**

. Notwithstanding anything contained in rule 15, the notice of demand under section 156 to be served upon the assessee in pursuance of an order under section 210 shall be in Form No. 28.

**38A. Statement of advance tax. :-**

. [Omitted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989.]

### **39. Estimate of advance tax. :-**

[. The intimation which an assessee has to send to the Assessing Officer under sub-section (5) of section 210 shall be in Form No. 28A.]

### **40. Waiver of interest :-**

<sup>1</sup>The <sup>2</sup>[Assessing Officer] may reduce or waive the interest payable under section 215 or section 217 in the cases and under the circumstances mentioned below, namely :

<sup>3</sup>(1) When the relevant assessment is completed more than one year after the submission of the return, the delay in assessment not being attributable to the assessee.

(2) Where a person is under section 163 treated as an agent of another person and is assessed upon the latter's income.

(3) Where the assessee has income from an unregistered firm assessed under the provisions of clause (b) of section 183.

(4) Where the previous year is the financial year or any year ending about the close of the financial year and large profits are made after the 1st March (or the 15th March in cases where the proviso to section 211 applies), in circumstances which could not be foreseen.

(5) Any case in which the <sup>4</sup>[Deputy] Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 215 or section 217 is justified.

<sup>5</sup> [(6) Nothing contained in this rule shall apply in respect of any assessment for the assessment year commencing on the first day of April, 1989, or any subsequent assessment year.]

1. See sections 215(4) and 217(2).

2. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. After first arriving at a decision as to whether and if so to what extent the delay in the completion of the assessment beyond the first year is attributable to the assessee, waiver should be given from the end of the first year to the period, if any, from where the delay is attributable to the assessee, and then the waiver should extend upto the date of completion of the assessment. Circular No. 492, dated 21-7-1987.

4. Substituted for "Inspecting Assistant" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

5. Inserted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989.

## **PART 7A TAX CREDIT**

### **40A. Claim for credit :-**

. . [Omitted by the IT (Fifth Amdt.) Rules. 1989, w.e.f. 18-5-1989. Earlier it was inserted by the IT (Second Amdt.) Rules, 1968.]

## **PART 7B MINIMUM ALTERNATE TAX**

### **40B. Special provision for payment of tax by certain companies. :-**

. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (4) of section 115JB shall be in Form No. 29B.]

## **PART 8 REFUNDS**

### **41. Refund claim :-**

(1) A claim for refund under Chapter XIX shall be made in Form No. 30.

(2) The claim under sub-rule (1) shall be accompanied by a return in the form prescribed under section 139 unless the claimant has already made such a return to the <sup>1</sup>[Assessing Officer].

(3) Where any part of the total income of a person making a claim for refund of tax consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 194 <sup>2</sup> [,section 194A and section 195], the claim shall be accompanied by the certificates prescribed under section 203.

(4) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

2. Inserted by the IT (Fifth Amdt.) Rules, 1967.

## **PART 9 TAX CLEARANCE CERTIFICATES**

#### **42. Application for tax clearance certificate. :-**

(1) An application under section 230 for a tax clearance certificate or an exemption certificate may be made in Form No. 31 to any competent authority.

(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an <sup>1</sup>[Assessing Officer] anywhere in India, the application shall be accompanied by an authorisation in Form No. 32 to be obtained by the applicant from the <sup>1</sup> [Assessing Officer] who has jurisdiction to assess him.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

#### **43. Form of certificate :-**

..

(1) A tax clearance certificate issued under sub-section (1) of section 230 shall be in Form No. 33 and shall be valid for the period mentioned therein.

(2) An exemption certificate issued under the proviso to sub-section (1) of section 230 shall be in Form No. 34 and shall be valid for the period mentioned therein.

#### **44. Production of certificate :-**

.. Any person leaving India shall, at the request of any Customs Officer, produce to him for examination the tax clearance certificate or the exemption certificate, as the case may be.

#### **44A. Application for tax clearance certificate for registration of documents in certain cases :-**

.. <sup>1</sup> An application under sub-section (2) of section 230Aa for a certificate under sub-section (1) of that section shall be made in duplicate in Form No. 34A to the [Assessing Officer].]

1. Inserted by the IT (Amdt.) Rules, 1965.

#### **44B. Grant of tax clearance certificate or refusal :-**

. <sup>1</sup>Within 60 days of the receipt of the application referred to in rule 44A, the <sup>2</sup> [Assessing Officer] shall

(i) if he is satisfied that the applicant has either paid or made satisfactory provision for payment of all existing liabilities under the enactments specified in clause (a) of sub-section (1) of section 230A or that the

(ii) if he is not so satisfied, pass an order in writing refusing to grant the certificate, recording his reasons therefor.]

1. Inserted by the IT (Amdt.) Rules, 1965.

2. Substituted for "Income-tax Officer by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

## **PART 9A SETTLEMENT OF CASES**

### **44C. Form of application for settlement of case :-**

..

(1) An application for settlement of a case under sub-section (1) of section 245C shall be made in quintuplicate in Form No. 34B <sup>1</sup>[and shall be verified in the manner indicated therein.]

<sup>2</sup> [(2) The application referred to in sub-rule (1), the verification appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in sub-rule (2) of rule 45.]

(3) Every application in connection with the settlement of a case shall be accompanied by a fee of five hundred rupees.]

1. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

2. Substituted, by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **44CA. Disclosure of information in the application for settlement of cases :-**

..<sup>1</sup> (1) The Settlement Commission may, while calling for a report from the Commissioner under sub-section (1) of section 245D, forward a copy of the application filed in Form No. 34B (other than the Annexure and the statements and other documents accompanying such Annexure).

(2) Where an order under sub-section (1) of section 245D allowing the application to be proceeded with is made by the Settlement Commission, the information contained in the Annexure to the application in Form No. 34B and in the statements and other

documents accompanying such Annexure shall be sent to the Commissioner along with a copy of the said order.]

1. Inserted, by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

**44D. Fee for furnishing copy of report :-**

..

(1) The following scale of fees shall be levied by the Settlement Commission for furnishing under section 245G a copy of any report or part of any report made by any income-tax authority to the Settlement Commission : For the first two hundred words or less ... 80 paise For every additional hundred words or fraction thereof ... 40 paise.

(2) The fee referred to in sub-rule (1) shall be recovered in advance in cash.

**PART 9B ADVANCE RULINGS**

**44E. Form of application for obtaining an advance ruling :-**

. .

<sup>1</sup>[(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate,

(a) in Form No. 34C in respect of a non-resident applicant;

<sup>2</sup>[( b) in Form No. 3 4D in respect of a resident applicant seeking advance ruling in relation to a transaction undertaken or proposed to be undertaken by him with a non-resident; and

(c) in Form No. 34E in respect of a resident falling within any such class or category of person as notified<sup>3</sup> by the Central Government in exercise of the powers conferred by sub-clause (IIi) of clause (b) of section 245N,] and shall be verified in the manner indicated therein.]

(2) The application referred to in sub-rule (1), the verification appended thereto, the annexures to the said application and the statements and documents accompanying it, shall be signed,

(a) in the case of an individual,

(i) by the individual himself ;

(ii) where, for any unavoidable reason, it is not possible for the individual to sign the application, by any person duly authorised by him in this behalf: Provided that in a case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the individual to do so, which shall be attached to

the application ;

(b) in the case of a Hindu undivided family,

(i) by the karta thereof, and

(ii) where, for any unavoidable reason, it is not possible for the karta to sign the application, by any other adult member of such family ;

(c) in the case of a company,

(i) by the Managing Director thereof, or where for any unavoidable reason such Managing Director is not able to sign and verify the application, or where there is no Managing Director, by any Director thereof;

(ii) where, for any unavoidable reason, it is not possible for the Managing Director or the Director to sign the application, by any person duly authorised by the company in this behalf :

Provided that in the case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the company to do so, which shall be attached to the application ;

(d) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the application or where there is no managing partner as such, by any partner thereof, not being a minor ;

(e) in the case of an association of persons, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

1. Substituted by the IT (Tenth Amdt.) Rules, 1999, w.e.f. 28-5-1999. Prior to its substitution, sub-rule (1) read as under: "(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate in Form No. 34C and shall be verified in the manner indicated therein."

2. Substituted by the IT (Thirteenth Amdt.) Rules, 2000, w.e.f. 3-8-2000. Prior to their substitution, clauses (b) and (c) read as under : "(b) in Form No. 34D in respect of a person seeking advance ruling in relation to the tax liability of a non-resident arising out of transaction undertaken or proposed to be undertaken by him with a non-resident; and (c) in Form No. 34E in respect of a resident falling within any such class or category of person as notified by Central Government in exercise of powers conferred by sub-clause (11) of clause (b) of section 245N,"

3. Public sector company has been notified vide SO 725(E), dated 3-8-2000.



**44F. Certification of copies of the advance rulings pronounced by the Authority :-**

. . The copy of the advance ruling pronounced by the Authority to be sent to the applicant and to the Commissioner having jurisdiction over his case, shall be certified to be true copy thereof by the Commissioner or Deputy Commissioner, Authority for Advance Rulings, as the case may be.]

**PART 10 APPEALS**

**45. Form of appeal to [ \* \* \* ] [ \* \* \* ] Commissioner (Appeals)]. :-**

.  
[[ (1) An appeal to [ \* \* \* ] the Commissioner (Appeals) shall be made in Form No. 35.]

[(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of income under section 140 of the Income-tax Act, 1961, as applicable to the assessee.]

**46. Mode of service. :-**

.  
(1) The intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 shall be served in the same manner as is laid down in section 282 for the service of a notice or requisition.

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908 (5 of 1908).

**46A. Production of additional evidence before the [Deputy Commissioner (Appeals)] [and Commissioner (Appeals)] :-**

. . <sup>123</sup>[

(1) The appellant shall not be entitled to produce before the <sup>2</sup>[Deputy Commissioner (Appeals)] <sup>1</sup>[or, as the case may be, the Commissioner (Appeals)], any evidence, whether oral or

documentary, other than the evidence produced by him during the course of proceedings before the <sup>6</sup>[Assessing Officer], except in the following circumstances, namely :

(a) where the <sup>4</sup>[Assessing Officer] has refused to admit evidence which ought to have been admitted ; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the <sup>8</sup>Assessing Officer]; or

(c) where the appellant was prevented by sufficient cause from producing before the <sup>4</sup>[Assessing Officer] any evidence which is relevant to any ground of appeal; or

(d) where the <sup>5</sup>[Assessing Officer] has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the <sup>11</sup>[Deputy Commissioner (Appeals)] <sup>12</sup>[or, as the case may be, the Commissioner (Appeals)] records in writing the reasons for its admission.

(3) The <sup>13</sup>[Deputy Commissioner (Appeals)] <sup>14</sup>[or, as the case may be, the Commissioner (Appeals)] shall not take into account any evidence produced under sub-rule (1) unless the <sup>15</sup>[Assessing Officer] has been allowed a reasonable opportunity

(a) to examine the evidence or document or to cross-examine the witness produced by the appellant, or

(b) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the <sup>16</sup>[Deputy Commissioner (Appeals)]<sup>17</sup>[or, as the case may be, the Commissioner (Appeals)] to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the <sup>10</sup> [Assessing Officer]) under clause (a) of sub-section (1) of section 251 or the imposition of penalty under section 271.]

1. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

2. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

6. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

8. Substituted for "Income-tax Officer", *ibid*.

11. Substituted for "Appellate Assistant Commissioner", *ibid*.

12. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

13. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

14. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

15. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

16. Substituted for "Appellate Assistant Commissioner", *ibid*.

17. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

#### **47. Form of appeal and memorandum of cross-objections to Appellate Tribunal :-**

. .

(1) An appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No. 36 <sup>1</sup>[. and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45].

(2) A memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No. 36A<sup>2</sup> [, and where the memorandum of cross-objection is made by the assessee, the form of memorandum of cross-objections, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45].

1. Inserted by the IT (Second Amdt.) Rules, 1966.

2. Inserted, *ibid*.

#### **48. Form of application for reference to High Court :-**

.. An application under sub-section (1) of section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No.37.

## **PART 10A ANNUITY DEPOSITS**

### **48A. Notice of demand :-**

. <sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.] .

1. Prior to its omission, rule 48A, stood as under : "Notwithstanding anything contained in rule 15, the notice of demand under section 156 in respect of annuity deposit referred to in Chapter XXIIA, to be served upon a depositor (to whom the provisions of that Chapter apply) (i) in pursuance of an order under section 280F, shall be in Form No. 37A , (ii) in pursuance of an order under section 280K, shall be in Form No. 37B ; (iii) in any other case, shall be in Form No. 37C."

### **48B. Estimate of advance deposit :-**

.<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

1. Prior to its omission, rule 48B, stood as under : "The estimate which a depositor has to send to the Income-tax Officer under section 280H shall be in Form No. 37D."

### **48C. Estimate of annuity deposit for the assessment year 1964-65 :-**

.<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989]

1. Prior to its omission, rule 48C, as amended by the IT (Amdt.) Rules, 1967, stood as under : "The estimate which a depositor has to send to the Income-tax Officer under sub-section (1) of section 280L, shall be in Form No. 37E. Explanation The provisions of rule 48A, rule 48B and this rule shall not apply in respect of annuity deposit in relation to the assessment year commencing on the 1st day of April, 1967, or any subsequent assessment year."

## **PART 10B ACQUISITION OF IMMOVABLE PROPERTIES UNDER CHAPTER XXA**

**48D. Jurisdiction of competent authorities. :-**

. Where any immovable property is situate within the local limits of the jurisdiction of two or more competent authorities, the competent authority within whose jurisdiction the office of the registering officer who registered the instrument of transfer in respect of such property is situate shall be the competent authority to perform the functions of competent authority under Chapter XXA in relation to such property.

**48DD. Statement to be registered with the competent authority under section 269AB :-**

. .

(1) The statement required to be registered with the competent authority under sub-section (2) of section 269AB shall be in Form No. 37EE and shall be signed and verified in the manner indicated therein by each of the parties to the transaction referred to in sub-section (1) of that section or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

(2) The statement in Form No. 37EE shall be made in duplicate and shall be furnished to the competent authority within a period of thirty days from the date on which the transaction referred to in sub-section (1) of section 269AB takes place :

Provided that in relation to any such transaction which has taken place between the 1st day of July, 1982 and the date of the publication of the Income-tax (Eighth Amendment) Rules, 1982 in the Official Gazette, the provisions of this sub-rule shall have effect as if for the words "thirty days", the words "sixty days" had been substituted.

(3) Where the competent authority considers that the statement in Form No. 37EE furnished under sub-section (2) of section 269AB is defective, he may intimate the defect to the parties or, as the case may be, the party furnishing such statement and give them an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the competent authority may, in his discretion allow; and if the defect is not rectified within the period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this rule, the statement in Form No. 37EE shall be

treated as an invalid statement and the provisions of the Act shall apply as if the parties to the transaction had not complied with the provision of section 269AB.

(4) The competent authority shall, within a period of sixty days from the date of the receipt by him of the statement in Form No. 37EE or, as the case may be, from the date of the rectification of the defects under sub-rule (3), make an order registering the statement under section 269AB; and if no such order is made by the competent authority within the said period of sixty days, the statement shall be deemed to have been registered under section 269AB as on the date on which the said period of sixty days expires.]

**48E. Manner of publication of notice for acquisition :-**

. . The substance of the notice under sub-section (1) of section 269D in respect of any immovable property shall be made known in the locality in which such property is situate by proclamation in the language of the District by beat of drum or other customary mode.

**48F. Form of appeal to the Appellate Tribunal :-**

. . An appeal under section 269G to the Appellate Tribunal shall be in Form No. 37F and the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45.

**48G. Statement to be furnished in respect of transfers of immovable property :-**

. . The statement required to be furnished to the registering officer under subsection (1) of section 269P shall be in Form No. 37G, and shall be signed and verified by the transferee in the manner indicated therein.

**48H. Form of fortnightly return to be forwarded by registering officer to the competent authority. :-**

. The return to be forwarded by the registering officer to the competent authority under clause (b) of sub-section (2) of section 269P shall be in Form No. 37H and be verified in the manner indicated therein.]

## CHAPTER XXC

### **48I. Rate of interest for determination of discounted value of consideration :-**

. . The rate of interest for determination of the discounted value of consideration under sub-clause (1) or sub-clause (2) of clause (b) of section 269UA shall be eight per cent per annum.

### **48J. Jurisdiction of appropriate authority :-**

. . Where any immovable property is situate within the local limits of the jurisdiction of two or more appropriate authorities, the appropriate authority within whose jurisdiction the office of the registering officer appointed under the Registration Act, 1908 (16 of 1908), who is entitled to register any document of transfer in respect of such property, is situate, shall be the appropriate authority to perform the function of appropriate authority under Chapter XXC in relation to such property.

### **48K. Value of immovable property :-**

[. .<sup>1</sup> The value of any immovable property for the purposes of sub-section (1) of section 269UC shall be, where the agreement for transfer prescribed under the said sub-section

(a) \is entered intp, on or before the 31st day of July, 1995, the apparent consideration of that property exceeding 10 lakh rupees;  
(b) \is entered into, after 31st day of July, 1995, the apparent consideration of that property as specified in column (3) of the Table below :

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1. Substituted by the IT (Tenth Amdt.) Rules, 1995, w.e.f. 1-8-1995. Prior to substitution, rule 48K read as under: "48K. Value of immovable propertyThe value of any immovable property for the purpose of sub-section (1) of section 269UC shall be the apparent consideration of that property exceeding ten lakh rupees."

### **48L. Statement to be furnished under section 269UC(3) :-**

. .

(1) The statement required to be furnished to the appropriate authority under sub-section (3) of section 269UC shall be in Form No. 37-I and shall be signed and verified in the manner indicated

therein by each of the parties to the transfer referred to in sub-section (1) of that section or by any of the parties to such transfer acting on behalf of himself and on behalf of the other parties.

[(2) The statement in Form No. 37-I shall be furnished, in duplicate, to the appropriate authority

(a) before the 30th day of October, 1987, in a case where the agreement for transfer is entered into before the coming into force of Chapter XXC in the areas comprised in the "Bangalore Metropolitan Region", and "Ahmedabad Urban Development Area" and the areas comprised in the city of Ahmedabad, as referred to in the notification of the Government of India in the Department of Revenue No. SO 835(E), dated 21-9-1987;

(b) before the expiry of 15 days from the date on which the provisions of Chapter XXC come into force in any areas, other than the areas referred to in clause (a) where the agreement for transfer is entered into before such date; and

(c) before the expiry of 15 days from the date on which the agreement for transfer is entered into, in cases not covered by clauses (a) and (b).]

## **PART 11 AUTHORISED REPRESENTATIVES**

### **49. Definitions :-**

. . In this Part

(a) "authorised income-tax practitioner" means any authorised representative as defined in clause (v) or clause (vi) or clause (vii) of sub-section (2) of section 288;

(b) "prescribed authority" means the prescribed authority referred to in rule 52;

(c) "register" means the register of income-tax practitioners referred to in rule 53.

### **50. Accountancy examinations recognised :-**

.<sup>1</sup>The following accountancy examinations are recognised for the purpose of clause (v) of sub-section (2) of section 288, namely :

(1) The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Education, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination.

(2) Government Diploma in Company Secretaryship awarded by the



Department of Company Affairs, under the Ministry of Industrial Development and Company Affairs, New Delhi.]

<sup>2</sup>[(2A) Final Examination of the Institute of Company Secretaries of India, New Delhi.]

<sup>3</sup>[(3) The Final Examination of the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959).]

<sup>4</sup>[(4) The Departmental Examinations conducted by or on behalf of the Central Board of Direct Taxes for <sup>5</sup>Assessing Officers], Class I or Group A, Probationers, or for <sup>5</sup>[Assessing Officers], Class II or Group B, Probationers, or for promotion to the post of <sup>7</sup>[Assessing Officers], Class II or Group B, as the case may be.]

<sup>8</sup> [(5) The Revenue Audit Examination for Section Officers conducted by the Office of the Comptroller and Auditor General of India.]

1. Substituted by the IT (Second Arndt.) Rules, 1968.

2. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

3. Inserted by the IT (Second Amdt.) Rules, 1970.

4. Inserted by the IT (Eleventh Amdt.) Rules, 1986, w.e.f. 12-12-1986.

5. Substituted for "Income-tax Officers" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

7. Substituted for "Income-tax Officers", *ibid*.

8. Inserted by the IT (Second Amdt.) Rules, 1991, w.e.f. 11-1-1991.

### **51. Educational qualifications prescribed :-**

. . The following educational qualifications are prescribed for the purpose of clause (vi) of sub-section (2) of section 288 : A degree in Commerce or Law conferred by any of the following Universities:

(I) Indian Universities : Any Indian University incorporated by any law for the time being in force.

(II) Rangoon University.

(III) English and Welsh Universities : The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales.

(IV) Scottish Universities: The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.

(V) Irish Universities : The Universities of Dublin (Trinity College), the Queens University, Belfast and the National University of Dublin.

(VI) Pakistan Universities: Any Pakistan University incorporated by any law for the time being in force.

**52. Prescribed authority for section 288(5)(b) :-**

. . For the purposes of clause (b) of sub-section (5) of section 288, the "prescribed authority" shall be the <sup>1</sup> [Chief Commissioner or Commissioner] having jurisdiction over the case in the proceedings connected with which the income-tax practitioner is alleged to be guilty of misconduct.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**53. Register of income-tax practitioners :-**

.. Every <sup>1</sup> [Chief Commissioner or Commissioner] shall maintain in Form No. 38, a register of authorised income-tax practitioners to whom certificates of registration have been issued by him under rule 55.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**54. Application for registration :-**

..

(1) Any person who wishes to have his name entered as an authorised income-tax practitioner in the register shall apply to the <sup>1</sup>[Chief Commissioner or Commissioner] within whose area of jurisdiction he has been practising. The application shall be made in Form No. 39 and shall be accompanied by documentary evidence regarding his eligibility for income-tax practice under clause (v) or clause (vi) <sup>2</sup>[or clause (via)] or clause (vii) of sub-section (2) of section 288.

(2) The applicant shall also furnish such further information as the <sup>1</sup> [Chief Commissioner or Commissioner] may require in connection with the disposal of the application.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

2. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

### **55. Certificate of registration :-**

.. If the <sup>1</sup>[Chief Commissioner or Commissioner] is satisfied that the applicant fulfils the requirements of clause (v) or clause (vi) <sup>2</sup>[or clause (via)] or clause (vii) of sub-section (2) of section 288 and has been practising before income-tax authorities for not less than one year on the date of the application, the <sup>1</sup> [Chief Commissioner or Commissioner] shall enter the name of the applicant in the register and issue him a certificate of registration in Form No. 40.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

2. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

### **56. Cancellation of certificate :-**

..

(1) A certificate of registration shall stand cancelled when the name of the holder of the certificate is removed from the register under these rules.

(2) When the name of the holder of the certificate is removed from the register, the <sup>1</sup>[Chief Commissioner or Commissioner] maintaining the register shall notify the fact of such removal to the authorised income-tax practitioner concerned and also to other <sup>2</sup> [Chief Commissioner or Commissioners] of Income-tax (who shall notify the fact of the removal to the income-tax authorities subordinate to them) and to the Appellate Tribunal.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

2. Substituted for "Commissioners", *ibid*.

### **57. Cancellation of certificate obtained by misrepresentation :-**

..

(1) If at any time the <sup>1</sup> [Chief Commissioner or Commissioner] is satisfied that the certificate of registration was obtained by misrepresentation as to an essential fact, he shall order the removal of the name of the income-tax practitioner from the register.

(2) No order under sub-rule (1) shall be passed unless the authorised income-tax practitioner has been given a reasonable opportunity of being heard in regard to the proposed removal.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**58. Removal of name of authorised income-tax practitioner who is insolvent or on whom penalty has been imposed :-**

.. During the period for which a person whose name has been entered in the register is in the circumstances referred to in clause (b) or clause (c) of subsection (4) of section 288 disqualified to represent an assessee, his name shall be removed from the register and shall be re-entered only after the completion of the aforesaid period.

**59. Prescribed authority to order an inquiry :-**

.. No order directing that an authorised income-tax practitioner shall be disqualified to represent an assessee shall be passed under clause (b) of sub-section (5) of section 288 except after an inquiry held as far as may be in the manner hereinafter provided in rules 60 to 65.

**60. Charge-sheet :-**

. . Where the prescribed authority on the basis of information in its possession is of the opinion that prima facie an authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall frame definite charges against the income-tax practitioner and shall communicate them in writing to him together with a statement of the allegations in support of the charges. The authorised income-tax practitioner shall be required to submit within such time as may be specified by the prescribed authority a written statement of his defence and also to state whether he desires to be heard in person.

### **61. Inquiry Officer :-**

.. The prescribed authority shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of an Assistant Commissioner of Income-tax to conduct the inquiry and shall inform the authorised income-tax practitioner of the appointment of such an Inquiry Officer.

### **62. Proceedings before Inquiry Officer. :-**

.

(1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted.

(2) The Inquiry Officer shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The authorised income-tax practitioner shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. If the Inquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing.

(3) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor.

### **63. Order of the prescribed authority. :-**

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(1) The prescribed authority shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the findings of the Inquiry Officer, shall record the reasons for its disagreement.

(2) If the prescribed authority is satisfied on the basis of its findings on the Inquiry Officers report that the authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall pass an order directing that the authorised income-tax practitioner shall be disqualified to represent an assessee under sub-section (1) of section 288 for such period as it may determine and his name shall be removed from the register for that period.

(3) The prescribed authority shall while communicating its order under sub-rule (2) furnish to the authorised income-tax practitioner

a copy of the report of the Inquiry Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer.

**64. Procedure if no Inquiry Officer appointed :-**

. . The procedure prescribed in the aforesaid rules shall mutatis mutandis apply when the prescribed authority itself conducts the inquiry without appointing an Inquiry Officer.

**65. Change of Inquiry Officer :-**

. . If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the prescribed authority may appoint any other Inquiry Officer not below the rank of an Assistant Commissioner of Income-tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor.

**66. Powers of prescribed authority and Inquiry Officer. :-**

For the purposes of any proceedings under rules 59 to 65, the prescribed authority and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:

- (a) discovery and inspection;
- (b) enforcing the attendance of any person including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of accounts and other documents; and
- (d) issuing commissions.

**PART 12 RECOGNISED PROVIDENT FUNDS**

**67. 64[Investment of fund moneys. :-**

(1) All moneys contributed to a provident fund (whether by the employer or by the employees) after the 31 st day of October, 1974, or transferred after that date from the individual account of an employee in any recognised provident fund maintained by his former employer or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India <sup>1</sup>[or in a current account or a Savings Bank

Account with any scheduled bank]; and to the extent such moneys as are not so deposited (such moneys as are not so deposited being hereafter in this rule referred to as investible moneys) shall be invested in the manner specified in sub-rule (2).

Explanation: For the purposes of this rule and rules 85 and 101, (i) moneys received after the 31st day of October, 1974, on transfer, maturity or realisation of any security or deposit forming part of a fund

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank<sup>2</sup> as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970),<sup>3</sup> [or under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980),] or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

Provided that where any moneys are received on the maturity of earlier investment specified under clause (z), clause (ii) and clause (iv) of this sub-rule, such moneys, reduced by obligatory outgoings, shall be invested in accordance with the manner of investment specified in this sub-rule :

Provided further that the interest received on the Special Deposit Scheme shall be invested in the Special Deposit Scheme itself. Similarly, interest received under other categories may be re-invested in the same category :

Provided also that any amount invested after 31 st March, 1997, but on or before the date of issue of this notification in accordance with the manner of investment in force in this behalf from 1st day of October, 1996 to 31st March, 1997 shall be deemed to have been invested in the manner specified in this sub-rule :

<sup>4</sup>[Provided also that the trustees may invest, an amount not exceeding ten per cent out of the amount of twenty per cent of investible moneys referred to in clause (iv), in the bonds or securities of any company, other than a public sector company, which have an investment grading from two or more credit rating agencies registered under sub-section (1A) of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

Explanation 1: The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year. Explanation 2 : For the purposes of this

sub-rule, (i) the expression "public financial institution"<sup>5</sup> shall have the meaning assigned to it in Section 4A of the Companies Act, 1956 (1 of 1956); (ii) the expression "public sector company"<sup>6</sup> shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act; and (iii) the expression "public sector bank"<sup>76</sup> shall have the meaning assigned to it in clause (23D) of section 10 of the Income-tax Act.] \

1. Substituted for "or in a current account with any scheduled bank" by the IT (Third Amdt.) Rules, 1986, w.e.f. 1-4-1986.

2. For definition of "subsidiary bank", see footnote 21 on page 1.60 ante.

3. Inserted by the IT (Sixth Amdt.) Rules, 1993, w.e.f. 1-4-1993.

4. Inserted by the IT (Sixth Amdt.) Rules, 1999, w.r.e.f. 1-4-1998.

5. For text of section 4A of the Companies Act, 1956, see Appendix.

6. Clause (36A) of section 2 of the Income-tax Act, 1961, defines "public sector company" as \ follows: (36A) "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

### **67A. 77[Nomination. :-**

**578**(1) An employee may be allowed by the trustees of the provident fund to make a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the provident fund in the event of his death, before that amount becomes payable or, having become payable, has not been paid. Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the provident fund.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by an employee in favour of a person not belonging to his family shall be



invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the trustees.

Explanation: For the purposes of this rule, "family" means the employees spouse, legitimate children, step-children <sup>579</sup> [, deceased sons widow, deceased sons legitimate children, deceased sons step-children] and <sup>580</sup> "dependent parents".]

Inserted by the IT (Second Amdt.) Rules, 1971. For clarification on nomination, see Circular No. 110, dated 13-4-1973. For details, see Taxmanns Master Guide to Income-tax Rules.

Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

In the Income-tax Rules, 1962, in rule 67A, in the Explanation, for the words "dependent parents, sisters and minor brothers", the words "dependent parents" shall be substituted, by the Income-tax (First Amendment) Rules, 2007.

## **68. Circumstances in which withdrawals may be permitted.**

:-

(1) Withdrawals by employees may be allowed by the trustees of the provident fund in the following circumstances:

(a) to pay expenses incurred in connection with the illness of the employee or a member of his family;

<sup>1</sup>[(aa) meeting the cost of higher education, including, where necessary, the travelling expenses of any child of the employee actually dependent on him in the following cases, namely :

(i) education outside India for academic, technical, professional or vocational courses beyond the [matriculation] stage, and

(ii) any medical, engineering or other technical or specialised course

in India beyond the <sup>2</sup>[matriculation stage];]

(b) to pay for the cost of passage to a place out of India of an employee or any member of his family;

(c) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the employee it is incumbent upon him to perform;

<sup>3</sup>[(d) to meet the expenditure on building a house, or purchasing a site <sup>4</sup>[or a house] or a house and a site and, in the case of an employee whose pay does not exceed rupees <sup>5</sup>[five thousand] per month also on additions, substantial alterations or improvements necessary to a house:

Provided that the employee furnishes an undertaking to the trustees not to encumber or alienate such house or site <sup>6</sup>[or such house and site] or house and site, as the case may be:

<sup>7</sup>[Provided further that in the case of an employee whose pay does not exceed rupees <sup>5</sup>[five thousand] per month, such house or site or such house and site shall not be deemed to be an encumbered property merely because such house or site or such house and site is

(i) mortgaged, solely for having obtained funds for the purchase of the said house or site or the said house and site or for the building of such house to any of the following agencies, namely, (a) the Central Government; (b) a State Government; (c) a co-operative society, being a society registered or deemed to be registered under the Cooperative Societies Act, 1912, or under any other law for the time being in force in any State relating to co-operative societies; (d) an institution; (e) a trust; (f) a local body; or (g) a housing finance corporation; or

(ii) held in the name of any of the aforesaid agencies and the employee is precluded from transferring or otherwise disposing of that house or site or that house and site without the prior approval of such agency.]

Explanation : For the purposes of this clause, "pay" shall have the meaning assigned to it in the Explanation to sub-rules (2A) and (2B) of rule 69;]

<sup>9</sup>[(dd) for repayment of loan previously raised for the purpose of construction or purchase of a house;]

(e) to pay premia on policies of insurance on the life of the employee or of his wife provided that the policy is assigned to the trustees of the Fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia

are from time to time handed over to the trustees for inspection by the **10**[Assessing Officer];

(f) to meet the cost of legal proceedings instituted by the employee for vindicating his position in regard to any allegations made against him in respect of any act done or purporting to be done by him in the discharge of his official duty or to meet the cost of his defence when he is prosecuted by the employer in any court of law in respect of any official misconduct on his part:

Provided that the advance under this clause shall not be admissible to an employee who institutes legal proceedings in any court of law either in respect of any matter unconnected with his official duty or against the employer in respect of any condition of service or penalty imposed on him;

**11**[(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of (i) flood, cyclone, earthquake or other convulsion of nature; or (ii) riot;]

**12**[{h) in the case of an employee whose pay does not exceed rupees **13**[five thousand] per month, (i) to meet his household expenses if a factory or other establishment, wherein he is working, is locked up or closed down for more than fifteen days for reasons other than a strike rendering him unemployed without any compensation or if he is not in receipt of wages for a continuous period of two months or more;

(ii) to meet his household expenses if the factory or other establishment wherein he is working, suffers cut in supply of electricity resulting in a loss of one-fourth or more of the total wages of the employee;

(iii) to meet the cost of purchasing an equipment required by a physically handicapped employee which will minimise his hardship on account of the handicap;

**14** [(iv) to meet his household expenses where the employee is discharged or dismissed or retrenched by the employer and such discharge, dismissal or retrenchment, as the case may be, is challenged by the employee in any court or tribunal and the case is pending in that court or tribunal.]

Explanation: For the purposes of this clause, "pay" shall have the meaning assigned to it in the Explanation to sub-rules (2A) and (2B) of rule 69.]

(2) For the purposes of sub-rule (1), "family" means any of the following persons who are wholly dependent on the employee,

namely: the employees wife, legitimate children, step-children, parents, sisters and minor brothers.

1. Inserted by the IT (Second Amdt.) Rules, 1966.
2. Substituted for "High School stage, provided that the course of study is for not less than three years", *ibid*.
3. Substituted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981. Clause (d) was first substituted by the IT (Fourth Amdt.) Rules, 1964.
4. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.
5. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.
6. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.
7. Inserted, *ibid*.
9. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.
10. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
11. Substituted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993. Prior to substitution, clause (g) as inserted by the IT (Amdt.) Rules, 1979, w.e.f. 30-1-1979, read as under: "(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of flood, cyclone, earthquake or other convulsion of nature;"
12. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.
13. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.
14. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

**69. Conditions for withdrawal for various purposes. :-**

<sup>1</sup>[(1) The withdrawal <sup>2</sup>[in connection with expenses on illness as specified in clause (a) of sub-rule (1) of rule 68 or] in connection with expenses on marriage as specified in clause (c) of sub-rule (1) of rule 68, by an employee whose pay exceeds rupees <sup>3</sup>[five

thousand] per month, shall not exceed six months pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(1A) The withdrawal for the purposes specified in clause (ad) and clause (c) of sub-rule (1) of rule 68, by an employee, whose pay does not exceed rupees <sup>3</sup>[five thousand] per month, shall be subject to the following conditions, namely :

(a) the amount of withdrawal shall not exceed one-half of the employees contributions to the fund with interest thereon;

(b) the employee shall have completed seven years of service;

(c) the amount of the employees contributions to the fund with interest thereon is not less than rupees one thousand.]

(2) The withdrawal for the purpose specified in clause (d) <sup>2</sup>[and clause (dd)] of sub-rule (1) of rule 68 <sup>6</sup>[, by any employee whose pay exceeds rupees <sup>3</sup>[five thousand] per month,] shall be subject to the following conditions:

(i) the amount of withdrawal shall not exceed one-half of the amount standing to the employees credit or the actual cost of the house and/or of the site, whichever is less;

<sup>8</sup>[(ii) the employee shall have completed <sup>9</sup>[ten] years of service or is due to retire withm the next ten years;]

(iii) the construction of the house should be commenced within six months of the withdrawal and should be completed within one year from the date of the commencement of the construction;

(iv) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;

(v) if the withdrawal is made for the repayment of loan previously raised for the purpose of construction or purchase of a house, the repayment of the loan should be made within three months of the withdrawal;

(vi) where the withdrawal is for the construction of a house, it shall be permitted in two or more equal instalments (not exceeding four), a later instalment being permitted only after verification by the trustees about the actual utilisation of the earlier withdrawal;

(vii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances and no withdrawal shall be permitted for purchasing a share in a joint property or building or house or land whose ownership is divided;

(viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site, or if the amount

is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71. The amount refunded shall be credited to the employees account in the provident fund.

**10**[(2A) The withdrawal for the purpose specified in clause (d) of sub-rule (1) of rule 68, by any employee whose pay does not exceed rupees **11**[five thousand] per month, shall be subject to the following conditions, namely:

**12**[(i) the amount of withdrawal shall not exceed (a) the employees basic wages and dearness allowance for **13**[thirty-six] months; or (b) the actual cost of building the house or of purchasing the house or the site or the house and the site; or (c) the employees contribution to the fund together with the specified percentage of the employers contributions to that fund with interest thereon; whichever is less.

Explanation: For the purposes of sub-clause (c), "specified percentage" means (1) 75 per cent of the employees contribution forming part of the accumulation as on the date of the authorisation of payment, if the period of membership of the employee in the fund is five years or more, but less than ten years; (2) 85 per cent of such contribution, if the period of membership of the employee in the fund is 10 years or more, but less than 15 years; and

(3) 100 per cent of such contribution, if the period of membership of the employee in the fund is 15 years or more ;]

(ii) the employee shall have completed five years of service or is due to retire within the next ten years;

(iii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances;

(iv) no withdrawal shall be permitted for purchasing a share in a joint property or a building or a house or land whose ownership is divided except where a site is owned jointly with the spouse;

(v) where the withdrawal is for construction of a house, the payment of the withdrawal may be sanctioned in such number of instalments (not exceeding four) as the trustees of the fund think fit;

(vi) where the withdrawal is for the construction of a house, the construction of the house should be commenced within six months of the withdrawal and should be completed within twelve months of

the withdrawal of final instalment;

(vii) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;

(viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employees account in the fund.]

**14**[(2B) A withdrawal for additions, substantial alterations or improvements necessary to the house owned by the employee or jointly owned by the employee **15**[five thousand] per month, up to **16**[twelve] months basic wages and dearness allowance or the employees own share of contribution with interest thereon or the amount standing to his credit in the fund, whichever is less :

Provided that the said withdrawal shall be admissible only after a period of five years from the date of purchase or completion of the house :

Provided further that where the amount withdrawn is not utilised in whole or in part for the purpose for which it was withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employees account in the fund.

Explanation : For the purposes of sub-rules (2A) and (2B), "pay" includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food concession admissible thereon, to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or being taken into or employed in the national service.]

(3) The withdrawal for the purpose specified in clause (f) of sub-rule (1) of rule 68 shall not exceed three months pay<sup>**17**</sup> or Rs. 500, whichever is greater, but shall in no case exceed half the amount to the credit of the employee.

(4) The withdrawal for any other purpose referred to in sub-rule (1) of rule 68 <sup>18</sup>[except as provided in sub-rule (1 A)] shall not exceed three months pay<sup>14</sup> or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(5) For the purpose of this rule <sup>20</sup> [except sub-rules (2A) and (2B)], "pay" means the pay to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or been taken into or employed in the national service.

1. Substituted for sub-rule (1) by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

2. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

3. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

6. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

8. Substituted by the IT (Second Amdt.) Rules, 1964.

9. Substituted for "twenty" by the IT (Eighth Amdt.) Rules, 1980. Earlier "twenty" was substituted for "twenty-three" by the IT (Second Amdt.) Rules, 1971.

10. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

11. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

12. Substituted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

13. Substituted for "twenty-four" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

14. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981



15. Substituted for "two thousand and five hundred by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

16. Substituted for "six" by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

17. Pay shall have the same meaning as salary Letter F. No. 44/13/64-ITJ, dated 6-9-1964. For details, see Taxmanns Master Guide to Income-tax Rules.

18. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

20. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

## **70. Second withdrawal. :-**

(1) Save as in sub-rule (2) <sup>1</sup>[and sub-rule (3)], a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid.

<sup>2</sup>[(2) A withdrawal may be permitted (a) for any purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 68 notwithstanding that the sum withdrawn earlier for any purpose has not been repaid ;

(b) for any other purpose specified in sub-rule (1) of rule 68 notwithstanding that any sum withdrawn earlier for any purpose specified in clause (d) or clause (e) of the said sub-rule (1) has not been repaid.]

<sup>3</sup> [(3) A withdrawal, referred to in clause (a) of sub-rule (2), of an amount equal to the difference between the amount of withdrawal admissible under sub-rule (2A) of rule 69 as on the date of application and the amount actually withdrawn by the employee for the purpose specified in clause (d) of sub-rule (1) of rule 68 any time during six years preceding the 3rd day of October, 1981, may be permitted to the employee, whose pay does not exceed rupees [five thousand] per month, subject to the following conditions, namely :

(i) the employee had availed of the first withdrawal for purchase of a site and now proposes to construct a house on the site so purchased; or

(ii) the employee had availed of the first withdrawal for making initial payment towards allotment or purchase of a house from any

of the agencies referred to in the second proviso to clause (d) of sub-rule (1) of rule 68 and now proposes to withdraw the amount for completing the transaction and for acquiring ownership of the house so purchased; or

(iii) the employee had availed of the first withdrawal for construction of a house but the said construction could not be completed due to shortage of funds.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

2. Substituted by the IT (Second Amdt.) Rules, 1971.

3. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985

### **71. Repayment of amounts withdrawn. :-**

(1) Subject to the provisions of clause (viii) of sub-rule (2) <sup>1</sup>[or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69 where a withdrawal is allowed for a purpose specified in <sup>2</sup>[clause (d) or clause (dd) or clause (e) or sub-clause (i) of clause (h) of sub-rule (1)] of rule 68, the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed in connection with marriages as specified in clause (c) of sub-rule (1) of rule 68, the amount withdrawn shall be repaid in not more than forty-eight equal monthly instalments.

(3) Where a withdrawal is allowed for any other purpose, the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments.

(4) In respect of withdrawals referred to in sub-rules (2) and (3) and of the amount referred to in clause (viii) of sub-rule (2) <sup>3</sup> [or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69, interest shall be paid in accordance with the following Table :

Provided that at the discretion of the trustees of the fund, interest may be recovered on the amount aforesaid or the balance thereof outstanding from time to time at one per cent above the rate which is payable for the time being on the balance in the fund at the credit of the employee.

(5) The employer shall deduct the instalments aforesaid from the employees salary, and pay them to the trustees of the fund. These deductions shall commence from the second monthly payment of salary made after the withdrawal or, in the case of an employee on

leave without pay, from the second monthly payment of salary made after his return to duty.

1. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981
2. Substituted for "clause (d) or clause (e) of sub-rule (1)" by the IT (Fifth Amdt) Rules, 1993, w.e.f. 16-3-1993.
3. \Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

**72. Amount withdrawn but not repaid may be deemed as income. :-**

In case of default of repayment of instalments due under sub-rule (2) or sub- rule (3) or sub-rule (4) of rule 71 or where the amount withdrawn is not utilised for the purpose, for which it is withdrawn, the <sup>1</sup>[Chief Commissioner or Commissioner ] may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs or the withdrawn amount is finally held not to have been utilised for the purpose for which it is withdrawn, and the <sup>2</sup> [Assessing Officer] shall assess the employee accordingly.

1. \Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
2. \Substituted for "Income-tax Officer", ibid.

**73. 19[Withdrawal within twelve months before retirement. :-**

Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit at any time within twelve months before the date of retirement on superannuation of an employee, the withdrawal of upto ninety per cent of the amount standing at the credit of the employee.]

**74. Accounts. :-**

- (1) The accounts of a provident fund shall be prepared at intervals of not more than twelve months.
- (2) An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in Form No. 41.

(3) Where the accounts of a provident fund are kept outside India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in India :

Provided that the **627** [Assessing Officer] may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

**628**"(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund shall be furnished by the trustees to the assessing officer of the area in which the accounts of the fund are kept or if the accounts are kept outside India, to the assessing officer of the area in which the local headquarters of the employer are situated, not later than the fifteenth day of June in each year or any other subsequent date fixed by the assessing officer. It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who come within the purview of sub-rule (1) of rule 75.;

(5) The account to be made under the provisions of sub-rule (1) of rule 11 of Part A of the Fourth Schedule shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employees salary in accordance with which contributions have been made by the employer and employee.

**629** "(6) Every employer shall, as soon as possible, after the close of each financial year, send to each member, a statement of his account in the fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.";

Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

In the Income-tax Rules, 1962, in rule 74, sub-rule (4) shall be substituted in place of :- "(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund in respect of whom a

return is required to be furnished under sub-rule (4) of rule 35 shall be furnished by the trustees to the [Assessing Officer] specified in sub-rule (2) of rule 32 not later than the fifteenth day of June in each year or any other subsequent date fixed by the [Assessing Officer]. It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who were allowed withdrawals under rules 68 to 70 or who come within the purview of sub-rule (1) of rule 75." by the Income-tax (First Amendment) Rules, 2007.

In the Income-tax Rules, 1962, in rule 74, after sub-rule (5), the following shall be inserted, namely:- "(6) Every employer shall, as soon as possible, after the close of each financial year, send to each member, a statement of his account in the fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period."; by the Income-tax (First Amendment) Rules, 2007.

## **75. Limits for contributions. :-**

<sup>1</sup> (1) Where an employee of a company owns shares in the company with a voting power exceeding ten per cent of the whole of such power, the sum of the contributions of the employee and employer to the recognized provident fund maintained by the company shall not exceed Rs. 250 in any month.

(2) For the purpose of clause (a) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule the employers aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year.

(3) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (b) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule to the individual account of any one employee shall not exceed the amount of the contributions of the employee in that year:

Provided, however, that the above limit shall not apply to bonus contributions made by an employer under an award by an

Industrial Tribunal or under an order of a Court or under an agreement with the employees union(s) to the individual accounts of employees whose salary does not exceed Rs. 500 per month.

1. Limit applies to employers contribution only - CIT v. Raab Pipe Works (P.)Ltd. [1997] 226 ITR 710 (Mad.). Limit cannot be applied to statutory funds - CIT v. Indocean Engineer (P.) Ltd. [1997] 225 ITR 201/93 Taxman 476 (AP). Limit must be satisfied even after the fund is established - CIT v. Hyderabad Asbestos Cement Products Ltd. [1988] 172 ITR 762 (AP). Rule 75(1) limits the ceiling of deduction to Rs. 250 only in respect of contributions made by an employer to the recognized provident fund maintained by the company and contribution to fund under scheme formulated under EPF Act are deductible in full CIT v. Indocean Engineer (P.) Ltd. [1997] 225 ITR 201/93 Taxman 476 (AP). For details, see Taxmanns Master Guide to Income-tax Rules.

## **76. Penalty for assigning or creating a charge on beneficial interest. :-**

If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the <sup>1</sup>[Assessing Officer] shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the <sup>1</sup> [Assessing Officer] and shall be assessed accordingly.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

## **77. Application for recognition. :-**

(1) An application for recognition shall be made by the employers maintaining a provident fund for which recognition is sought and shall be accompanied by the following documents :

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the <sup>1</sup>[Chief Commissioner or Commissioner], and
- (b) the rules of the fund :

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the <sup>2</sup>[Chief Commissioner or Commissioner] to accept in lieu of the original a copy certified

either by a Magistrate or in any manner specified in rule 17 of the Companies (Central Governments) General Rules and Forms, 1956, in which case an additional copy shall be furnished for retention by the <sup>2</sup>[Chief Commissioner or Commissioner].

(2) The application shall be submitted through the <sup>4</sup>Assessing Officer] of the area in which the accounts of the fund are kept or, if the accounts are kept outside India, through the <sup>3</sup> [Assessing Officer] of the area in which the local headquarters of the employer are situate.

(3) The application shall contain the following information :

(a) Name of employer and address, his business, profession, etc., also his principal place of business.

(b) Number of employees subscribing to the fund (i) in India, (ii) outside India.

(c) Place where the accounts of the fund are or will be maintained.

(d) If the fund is already in existence (i) a copy of the last balance sheet of the fund, where such is maintained, (ii) details of investments of the fund.

(4) A verification in the following form shall be annexed to the application :

FORM OF VERIFICATION We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

1. Substituted for "Commissioner", *ibid*.

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

4. Substituted for "Income-tax Officer, *ibid*

### **78. Order of recognition. :-**

An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified : <sup>1</sup>[Provided that if the <sup>2</sup> [Chief Commissioner or Commissioner] is satisfied that there was sufficient reason for the delay in making such application, he may accord recognition to the fund from a date not earlier than the 1st day of April of the financial year in which the application is

made.]

1. Inserted by the IT (Second Amdt.) Rules, 1971. Recognition once granted cannot be reviewed by taxing authorities - Gestetner Duplicators (P.) Ltd. v. CIT [1979] 117 ITR 1 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **79. Withdrawal of recognition. :-**

**640** (1) The Chief Commissioner or Commissioner may withdraw recognition granted to a provident fund if it does not fulfil the conditions specified in part A of the Fourth Schedule to the Income-tax Act, 1961 or subsequent to grant of recognition under the Income-tax Act, 1961 the exemption granted under section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 is withdrawn under sub-section (4) of section 17 of the said Act.

(2) Before withdrawing recognition, the Chief Commissioner or Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.

In the Income-tax Rules, 1962, for rule 79, the following shall be substituted, in place of :- " 79. Withdrawal of recognition. :- Before withdrawing recognition, the [Chief Commissioner or Commissioner] shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn. by the Income-tax (First Amendment) Rules, 2007.

### **80. Exemption from tax when recognition withdrawn. :-**

If the <sup>1</sup>[Chief Commissioner or Commissioner] withdraws recognition from a provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall, subject to the provisions of rule 9 of Part A of the Fourth Schedule, be paid to him free of <sup>2</sup>[tax] at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to <sup>2</sup> [tax] as if the fund had never been recognised.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.



2. Substituted for "income-tax and super-tax" by the IT (Amdt.) Rules, 1967.

**81. Appeal. :-**

An appeal under sub-rule (1) of rule 13 of Part A of the Fourth Schedule shall be in Form No. 42 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

**PART 13 APPROVED SUPERANNUATION FUNDS**

**82. Definitions. :-**

In this Part

(1) "beneficiary" means a person referred to in clause (b) of rule 3 of Part B of the Fourth Schedule for whom provision of annuity is made;

(2) "fund" means a superannuation fund or a part of a superannuation fund <sup>1</sup> [which includes a fund, by whatever name called, established or constituted with a sole purpose of making payment of pension or family pension by the employer to his employees]; and

(3) "trust" means the trust under which the superannuation fund is established and "trustee" means a trustee thereof.

1. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f. 29-9-1995.

**83. Establishment of fund and trust. :-**

The fund and the trust shall be established in India.

**84. Conditions regarding trustees. :-**

(1) The trust shall have at least two trustees, provided that a company [as defined in clause (i) of sub-section (1) of section 3<sup>1</sup> of the Companies Act, 1956 (1 of 1956)] shall not be appointed as a trustee without the prior approval of the <sup>2</sup> [Chief Commissioner or Commissioner].

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

1. Clause (i) of section 3(1) of the Companies Act, 1956, defines "company" as follows : (i) "company" means a company formed and registered under this Act or an existing company as defined in clause (ii);

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

### **85. 31[Investment of fund moneys. :-**

All moneys contributed to the fund after the 31st day of October, 1974, or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account <sup>1</sup> [or in a savings account] with any scheduled bank or utilised in accordance with rule 89 for making payments under a scheme of insurance or for purchase of annuities referred to in that rule; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid.]

1. Inserted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 1-4-1991.

### **86. Admission of directors to a fund. :-**

Where the employer is a company<sup>1</sup> as defined in clause (i) of sub-section (1) of Section 3 of the Companies Act, 1956 (1 of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time bona fide employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power. <sup>2</sup>

1. For definition of "compam", see footnote 29 on page 1.187.

2. Rules 87 and 88 refer not only to the limits prescribed for the recognition and approval of the provident fund and superannuation fund, as the case may be, but also relate to the contributions thereafter made, whether such contributions are annual contributions or initial contributions CIT v. Hyderabad Asbestos Cement Products Ltd. [1988] 172 ITR 762 (AP). For conditions specified under section 36(l)(iv) and the procedure for computing the deduction, refer to Notification No. SO 3433, dated 21-10-1965

and Circular No. 4P (LVIII-30), dated 25-11-1965. The second condition specified in Notification, dated 21-10-1965 which disentitled the employer to claim deduction of 20 per cent of the initial contribution overstepped the power given to the Board by the second limb of clause (iv), and the third condition allowing deduction over a period of years was also beyond the powers of the Board. Both these conditions are invalid. CIT v. Sirpur Paper Mills [1999] 237 ITR 41 (SC). For details, see Taxmanns Master Guide to Income-tax Rules.

### **87. Ordinary annual contributions. :-**

The ordinary annual contribution by the employer to a fund in respect of any particular employee shall not exceed <sup>1</sup>[twenty-seven] per cent of his salary for each year as reduced by the employers contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year. <sup>2</sup>

1. Substituted for "twenty-five" by the IT (Second Amdt.) Rules, 1998, w.r.e.f. 22-9-1997. deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed twenty-five per cent of the employees salary for each year [up to the 21st September, 1997 and after 21st September, 1997, twenty-seven per cent of the employees salary for each year] of his past service with the employer as reduced by the employers contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year.

2. Rules 87 and 88 refer not only to the limits prescribed for the recognition and approval of the provident fund and superannuation fund, as the case may be, but also relate to the contributions thereafter made, whether such contributions are annual contributions or initial contributions CIT v. Hyderabad Asbestos Cement Products Ltd. [1988] 172 ITR 762 (AP). For conditions specified under section 36(I)(iv) and the procedure for computing the deduction, refer to Notification No. SO 3433, dated 21-10-1965 and Circular No. 4P (LVIII-30), dated 25-11-1965. The second condition specified in Notification, dated 21-10-1965 which disentitled the employer to claim deduction of 20 per cent of the initial contribution overstepped the power given to the Board by the second limb of clause (iv), and the third condition allowing deduction over a period of years was also beyond the powers of the Board. Both these conditions are invalid. CIT v. Sirpur Paper Mills [1999] 237 ITR 41 (SC). For details, see Taxmanns Master Guide to Income-tax Rules.

### **88. Initial contributions. :-**

Subject to any condition which the Board may think fit to specify under clause (iv) of sub-section (1) of section 36, the amount to be allowed as a

**89. 37Scheme of insurance or annuity. :-**

For the purpose of providing the annuities for the beneficiaries, the trustees shall-

(i) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 <sup>1</sup>[or any other insurer as defined in clause (28BB) of section 2 of the Income-tax Act, 1961], or

(ii) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India <sup>1</sup>[or any other insurer] at the time of the retirement or death of each employee or on his becoming incapacitated prior to retirement:

<sup>3</sup> [Provided that nothing in this rule shall apply to a fund established or constituted, under an irrevocable trust which has its sole purpose to make payment of pension or family pension, in accordance with the rules or regulations made under the following Central Acts, namely :

(i) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); or

(ii) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980); or

(iii) the State Bank of India Act, 1955 (23 of 1955); or

(iv) the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); or

(v) the Industrial Development Bank of India Act, 1964 (18 of 1964); or

(vi) the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); or

(vii) the Export-Import Bank of India Act, 1981 (28 of 1981); or

(viii) the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984); or

(ix) the Small Industries Development Bank of India Act, 1989 (39 of 1989);

or

(x) the National Housing Bank Act, 1987 (53 of 1987).]

1. Inserted by the IT (Fourth Amdt.) Rules, 2002, w.e.f. 1-4-2002.

3. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f 29-9-1995

**90. 39[Commutation of annuity. :-**

Any payment in commutation of annuity shall not exceed

(a) in a case where the employee receives any gratuity, the commuted value of <sup>1</sup>[one-third] of the annuity which he is normally entitled to receive, and

(b) in any other case, the commuted value of <sup>2</sup> [one-half] of such annuity, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality.]

1. Substituted for "one-fourth" by the IT (Fourth Amdt.) Rules, 1984, w.e.f. 1-4-1985.

2. Substituted for "one-third", ibid.

**91. Beneficiary not to have any interest in insurance and employer not to have any interest in funds moneys. :-**

(1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund.

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

**92. Penalty if employee assigns or charges interest in fund. :-**

If an employee assigns or creates a charge upon his beneficial interest in a fund, the <sup>1</sup>[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the <sup>2</sup> [Assessing Officer] and shall be assessed accordingly.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.)

Rules, 1989, w.r.e.f. 1-4-1988.

2. Substituted for "Income-tax Officer", *ibid*.

**93. Arrangements on winding up, etc., of business.<sup>44</sup> :-**

Where the employers trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the <sup>1</sup> [Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of annuities to the existing employees or, on the death of the employees, to their widows, children or dependents.

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**94. Arrangements for winding up, etc., of fund.<sup>46</sup> :-**

Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by, the <sup>1</sup> [Chief Commissioner or Commissioner].

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**95. Application for approval. :-**

(1) The application for approval of a fund or part of a fund under sub-rule (1) of rule 4 of Part B of the Fourth Schedule shall contain the following information :

(a) Name of employer and address, his business, profession, etc., also his principal place of business.

(b) Classes and number of employees entitled to the benefits of the fund (i) in India; (ii) outside India.

(c) Place where the accounts of the fund are or will be maintained.

(d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application : FORM OF VERIFICATION We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and

that the documents sent herewith are the originals or true copies thereof.

**96. Amendment of rules, etc., of fund. :-**

No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the <sup>1</sup> [Chief Commissioner or Commissioner].

1. Substituted for "Commissioner by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**97. Appeal. :-**

An appeal under sub-rule (1) of rule 8 of Part B of the Fourth Schedule shall be made in Form No. 43 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

**PART 14 48APPROVED GRATUITY FUNDS**

**98. Definitions. :-**

In this Part

(a) "beneficiary" means a person referred to in clause (b) of rule 3 of Part C of the Fourth Schedule for whom provision of gratuity is made;

(b) "fund" means a "gratuity fund"; and

(c) "trust" means the trust under which the fund is established and "trustee" means a trustee thereof.

**99. Establishment of fund and trust. :-**

The fund and the trust shall be established in India.

**100. Conditions regarding trustees. :-**

(1) The trust shall have at least two trustees provided that a company<sup>1</sup>[as defined in clause (i) of sub-section (1) of Section 3 of the Companies Act, 1956 shall not be appointed as a trustee without the prior approval of the <sup>2</sup> [Chief Commissioner or Commissioner].

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

1. For definition of company, see footnote 29 on page 1.187 ante.
2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**101. 50[Investment of fund moneys. :-**

All moneys contributed to the fund after the <sup>1</sup>[31st day of October, 1974] or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account <sup>2</sup>[or in a savings account] with any scheduled bank or utilised for the purpose of making contributions under Group Gratuity Scheme entered into with the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 <sup>3</sup>[or any other insurer as defined in clause (28BB) of section 2 of the Income-tax Act, 1961] <sup>4</sup> [; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid].]

1. Substituted for "31st day of March, 1987" by the IT (Fourth Amdt.) Rules, 1987, w.e.f. 1-4-1987 reverting back to original position and rendering the amendment made by the IT (Second Amdt.) Rules, 1987, w.e.f. 1-4-1987 redundant.

2. Inserted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 1-4-1990.

3. Inserted by the IT (Fourth Amdt.) Rules, 2002, w.e.f. 1-4-2002.

4. Inserted by the IT (Fourth Amdt.) Rules, 1987, w.e.f. 1-4-1987. See also Circular No. 482, dated 26-3-1987. For details, see Taxmann's Master Guide to Income-tax Rules.

**101A. 54[Nomination. :-**

(1) An employee may be allowed by the trustees of the gratuity fund to make a nomination conferring on one or more persons the right to receive the amount of gratuity in the event of his death, before that amount becomes payable or, having become payable, has not been paid. Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule



(1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the trustees.

<sup>1</sup> [Explanation: For the purposes of this rule, "family" means the employees spouse, legitimate children, step-children, deceased sons widow, deceased sons legitimate children, deceased sons step-children, dependent parents, sisters, minor brothers and the dependent parents of the employees spouse.]

1. Substituted by the IT (Eighth Amdt.) Rules, 1988, w.e.f. 5-10-1988. Prior to its substitution original Explanation stood as under :  
Explanation: For the purposes of this rule, "family" shall have the same meaning as in rule 67A.

## **102. Admission of directors to a fund. :-**

Where the employer is a company<sup>1</sup> as defined in clause (i) of sub-section (1) of Section 3 of the Companies Act, 1956 , a director of the company may be admitted to the benefits of the fund only if he is a wholetime bona fide employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power. <sup>2</sup>

1. For definition of company see footnote 29 on page 1.187 ante.
2. Rule 103 cannot be invoked when section 40A(7) is applied CIT v. Malayala Manorama Co. Ltd. [1994] 207 ITR288 (Ker.). For details, see Taxmanns Master Guide to Income-tax Rules.

### **103. Ordinary annual contributions. :-**

The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis as may be approved by the <sup>1</sup>[Chief Commissioner or Commissioner] having regard to the length of service of each employee concerned so, however, that such contribution shall not exceed 81/3 per cent of the salary of each employee during each year. <sup>2</sup>

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
2. For clarifications on this rule, .see Circular Nos. 30(XLVII-18), dated 30-11-1964 and 14 [F. No. 19/4/69-IT(A-II)], dated 23-4-1969 and Extracts from Minutes (Item 31) of Ninth Meeting of DTAC held on 5-11-1966. Rule 104 does not specify with any exactitude the actual amount which the assessee is liable to pay as the initial contribution. It lays down the principle that it shall not exceed one months salary of the employee for each year of his past service with the employer Addl. CIT v. Balrampur Raj Electric Supply Co. [1981] 128 ITR 615/6 Taxman 232 (All.) For details, .see Taxmanns Master Guide to Income-tax Rules.

### **104. Initial contributions. :-**

The amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed 81/3 per cent of the employees salary for each year of his past service with the employer.

### **105. Penalty if employee assigns or charges interest in fund. :-**

If an employee assigns or creates a charge upon his beneficial interest in a fund, the <sup>1</sup>[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or

charge shall be deemed to be income received by him in the previous year in which the fact became known to the <sup>2</sup> [Assessing Officer] and shall be assessed accordingly.

1. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988

2. Substituted for "Income-tax Officer", *ibid*.

**106. Employer not to have interest in fund moneys. :-**

No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

**107. Arrangements, for winding up, etc., of business. :-**

Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the <sup>1</sup> [Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of gratuity to the existing beneficiaries.

1. Substituted for "Commissioner", *ibid*.

**108. Arrangements for winding up of the fund. :-**

Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and to such conditions as may be imposed by, the <sup>1</sup> [Chief Commissioner or Commissioner].

1. Substituted for "Commissioner", *ibid*.

**109. Application for approval. :-**

(1) The application for approval of a gratuity fund under sub-rule (1) of rule 4 of Part C of the Fourth Schedule shall contain the following information :

(a) Name of employer and address, his business, profession, etc., also his principal place of business.

(b) Classes and number of employees entitled to admission to the fund (i) in India; (ii) outside India.

(c) Place where the accounts of the fund are or will be maintained.  
(d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application : FORM OF VERIFICATION We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

**110. Amendment of rules, etc., of fund. :-**

No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the <sup>1</sup> [Chief Commissioner or Commissioner].

1. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**111. Appeal. :-**

An appeal under sub-rule (1) of rule 8 of Part C of the Fourth Schedule shall be made in Form No. 44 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

**PART 15 MISCELLANEOUS**

**111A. Application for reduction of the amount of minimum distribution by a company :-**

. . [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

**111AA. Conditions for reference to Valuation Officers :-**

. . The percentage of the value of the asset and the amount referred to in sub-clause (i) of clause (b) of section 55A shall, respectively, be 15 per cent and Rs. 25,000.]

**111AB. Form of report of valuation by registered valuer :-**

. .<sup>1</sup> The report of valuation by a registered valuer in respect of any asset shall be furnished in the appropriate form specified in rule 8D

of the Wealth-tax Rules, 1957, and shall be verified in the manner indicated in such form.]

1. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 1-1-1973.

**111B. Publication and circulation of Boards order :-**

. <sup>1</sup>Any general or special order of the Board issued under clause (a) of subsection (2) of section 119, the publication and circulation of which is, in the opinion of the Board, necessary in the public interest, shall be published and circulated in one or more of the following modes, namely :

(i) publication of the order in the Official Gazette;

(ii) despatching copies of the order to Chambers of Commerce and other trade or professional associations which are, for the time being, borne on the mailing list of the Board;

(iii) displaying copies of the order on the notice board of the office of every <sup>2</sup>[Chief Commissioner or Commissioner], <sup>3</sup>[Deputy Commissioner] and <sup>4</sup> [Assessing Officer].]

1. Inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Substituted for "Inspecting Assistant Commissioner", ibid.

4. Substituted for "Income-tax Officer", ibid.

**112. Search and seizure :-**

. .

(1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to <sup>1</sup>[(14)].

<sup>2</sup>[(2) (a) The authorisation under sub-section (1) of section 132 (other than an authorisation under the proviso thereto) by the <sup>3</sup>[Director-General or <sup>4</sup>[Chief Commissioner or Commissioner] or any such <sup>5</sup>[Deputy Director] or <sup>6</sup>[Deputy Commissioner] as is empowered by the Board in this behalf shall be in Form No. 45;

(b) the authorisation under the proviso to sub-section (1) of section 132 by a <sup>4</sup>[Chief Commissioner or Commissioner] shall be in Form No. 45A;

(c) the authorisation under sub-section (1A) of section 132 by a

<sup>4</sup>[Chief Commissioner or Commissioner] shall be in Form No. 45B.

(2A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer, authorised to exercise the powers of search and seizure under section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.]

(4) If ingress into such building or place cannot be so obtained it shall be lawful for <sup>9</sup>[the authorised officer] executing the authority, with such assistance of police officers <sup>10</sup>[ of officers of the Central Government, or of both,] as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, <sup>11</sup>[the authorised officer] shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

<sup>12</sup>[(4A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft; and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be

Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to

withdraw and shall afford her every reasonable facility for withdrawing.]

**13**[(4B)] **14**[The authorised officer] may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such **15**[building, place, vessel, vehicle or aircraft], to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which **16**[the authorised officer] may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

**11**[(4C)] **12**[The authorised officer] may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of **19**[the authorised officer], who may take such steps as may be necessary for ensuring compliance with this sub-rule.] **20**[(5) Any person referred to in clause (iia) of sub-section (1) of section 132 may be searched by **21**[the authorised officer] with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency.]

**16**[(6) Before making a search, the authorised officer shall,  
(a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and  
(b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do.]

(7) The search shall be made in the presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by **23**[the authorised officer] and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under **24**[the Income-tax Act, 1922, or] the Act unless specially summoned.

**25**[(8) The occupant of the building, place, vessel, vehicle or

aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy thereof shall be forwarded to the <sup>26</sup>[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the <sup>21</sup>[Chief Commissioner or Commissioner], also to that officer.]

<sup>28</sup>[(9) Where any person is searched under clause (ia) of sub-section (1) of section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy thereof shall be forwarded to the <sup>21</sup>[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the <sup>21</sup>[Chief Commissioner or Commissioner], also to that officer.]

<sup>31</sup>[(10) [The authorised officer] shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of <sup>32</sup>[the authorised officer or any other income-tax authority] not below the rank of Income-tax Officer and <sup>33</sup>[the occupant of the building, place, vessel, vehicle or aircraft, including the person in charge of such vessel, vehicle or aircraft, searched] or any other person in his behalf shall also be permitted to place his seal on them. A copy of the list prepared shall be delivered to such occupant or person. A copy shall be forwarded to the <sup>34</sup>[Chief Commissioner or Commissioner] <sup>25</sup>[and where the authorisation has been issued by any officer other than the <sup>26</sup>[Chief Commissioner or Commissioner], also to that officer].]

<sup>37</sup><sup>38</sup>[(11)] <sup>39</sup>[The authorised officer] may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.]

<sup>40</sup>[(12)

(i) The Custodian shall take such steps as he may consider necessary for the safe custody of

(a) books of account and other documents, and



(b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries <sup>41</sup>[or the authorised bank] or a Government Treasury.

(iii) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest <sup>42</sup>[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] <sup>43</sup>[\* \* \*] for being credited, in the Personal Deposit Account of the <sup>44</sup>[Chief Commissioner or Commissioner] in the <sup>45</sup>[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] at the place where the office of the <sup>34</sup>[Chief Commissioner or Commissioner] is situate.]

<sup>47</sup>[(13)

(i) Whenever any sealed package is required to be opened for any of the purposes of the Act, <sup>48</sup>[the authorised officer] may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. <sup>49</sup>[The authorised officer] may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(ii) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.]

<sup>50</sup>(14)] The <sup>51</sup> [Assessing Officer] to whom the books of account or other documents or assets have been handed over under sub-section (9A) of section 132 shall have all the powers conferred on the authorised officer under sub-rules (11) and (13).]

1. Substituted for "(11)" by the IT (Second Amdt.) Rules, 1965. Earlier "(11)" was substituted for "(10)" by the IT (Third Amdt.) Rules, 1964.

2. Substituted for sub-rules (2) and (3) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975. Sub-rule (2) was first substituted by the IT (Third Amdt.) Rules, 1964 and later amended by the IT (Amdt.)/(Second Amdt.)/(Fifth Amdt.) Rules, 1965.

3. Substituted for "Director of Inspection" by the IT (Fifth Amdt.)

Rules, 1989, w.r.e.f. 1-4-1988.

4. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

5. Substituted for "Deputy Director of Inspection", *ibid*.

6. Substituted for "Inspecting Assistant Commissioner", *ibid*.

9. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

10. Inserted by the IT (Second Amdt.) Rules, 1965.

11. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

12. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

13. Inserted by the IT (Second Amdt.) Rules, 1965, as sub-rules (4A) and (4B) respectively, and were later renumbered as sub-rules (4B) and (4C) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

14. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

15. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

16. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

19. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

20. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

21. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

23. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

24. Inserted by the IT (Third Amdt.) Rules, 1964.

25. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-

1975.

26. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

28. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

31. Inserted by the IT (Third Amdt.) Rules, 1964 and later substituted by the IT (Second Amdt.) Rules, 1965.

32. Substituted for "the Inspecting Assistant Commissioner or any other income-tax authority" by the IT (Fifth Amdt.) Rules, 1965.

33. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

34. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

37. Substituted by the IT (Second Amdt.) Rules, 1965.

38. Renumbered by the IT (Third Amdt.) Rules, 1964.

39. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

40. Inserted by the IT (Second Amdt.) Rules, 1965.

41. Inserted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.

42. Substituted for "Government Treasury, *ibid.*

43. Words "free of charge omitted, *ibid.*

44. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

45. Substituted for "Government Treasury", *ibid.*

47. Inserted by the IT (Second Amdt.) Rules, 1965.

48. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

49. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," *ibid.*

50. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-

1975.

51. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**112A. Inquiry under section 132 :-**

.[. <sup>1</sup> (1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) are seized, the <sup>2</sup>[Assessing Officer], shall, within fifteen days of the seizure <sup>3</sup>[, and in a case where the assets are handed over to him by the authorised officer under sub-section (9A) of section 132, within fifteen days from the date on which such assets are handed over to him], issue to the person in respect of whom inquiry under sub-section <sup>4</sup>[(5)] of section 132 is to be made requiring him on the date to be specified therein (not being earlier than fifteen days from the date of service of such notice) either to attend at the office of the <sup>5</sup>[Assessing Officer] to explain or to produce or cause to be there produced evidence on which such person may rely for explaining the nature of the possession and the source of the acquisition of the assets.

(2) The <sup>5</sup>[Assessing Officer] may issue a notice to the person referred to in sub-rule (1) requiring him on a date specified therein to produce or cause to be produced at such time and at such place as the <sup>5</sup>[Assessing Officer] may specify such accounts or documents or evidence as the <sup>5</sup>[Assessing Officer] may require and may from time to time issue further notices requiring production of such further accounts or documents or other evidence as he may require.

(3) The <sup>9</sup>[Assessing Officer] may examine on oath any other person or make such other inquiry as he may deem fit.

(4) Before any material gathered in the course of the examination or inquiry under sub-rule (3) is used by the <sup>6</sup>[Assessing Officer] against the person referred to in sub-rule (1), the <sup>6</sup> [Assessing Officer] shall give a reasonable notice to that person to show cause why such material should not be used against him.]

1. Inserted by the IT (Second Amdt.) Rules, 1965.

2. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

4. Substituted for "(1B)" by the IT (Fifth Amdt.) Rules, 1965.
5. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
9. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**112B. Release of articles under section 132(5) :-**

.. <sup>1</sup>Where in pursuance of sub-section <sup>2</sup>[(5)] of section 132 of the Act, the assets or part thereof have to be released, the <sup>3</sup>[Assessing Officer] shall forthwith deliver the same to the person from whose custody they were seized in the presence of two respectable witnesses.]

1. Inserted by the IT (Second Amdt.) Rules, 1965.
2. Substituted for "(1B)" by the IT (Fifth Amdt.) Rules, 196.
3. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**112C. Release of remaining assets :-**

[. <sup>1</sup>Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) of section <sup>2</sup>[132B] are discharged shall be forthwith made over or paid to the person, from whose custody the assets were seized, in the presence of two respectable witnesses.]

1. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fifth Amdt.) Rules, 1965.
2. Substituted for "132A" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

**112D. Requisition of books of account, etc :-**

. <sup>1</sup>.

(1) The authorisation under sub-section (1) of section 132A by the <sup>2</sup>[Director General or Director] or the <sup>3</sup>[Chief Commissioner or Commissioner] shall be in Form No. 45C, shall be in writing under the signature of the officer issuing the authorisation and shall bear

his seal.

(2) The officer authorised to make a requisition under sub-section (1) of section 132A (hereinafter referred to as the requisitioning officer) shall make the requisition in writing to the officer or authority referred to in clause (a) or clause (b) or, as the case may be, clause (c) of the said sub-section (hereinafter referred to as the delivering officer or authority) calling upon the delivering officer or authority to deliver the books of account, other documents or assets specified in the requisition to him. The requisition shall be accompanied by a copy of the authorisation in Form No. 45C. A copy of the requisition, along with a copy of the authorisation in Form No. 45C, shall be forwarded to the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A.

(3) The delivering officer or authority shall prepare a list of the books of account or other documents delivered to the requisitioning officer. Before effecting delivery of any bullion, jewellery or other valuable article or thing, the delivering officer or authority shall place or cause to be placed such bullion, jewellery, article or thing in a package or packages which shall be listed with details of such bullion, jewellery, article or thing placed therein. Every such package shall bear an identification mark and seal of the requisitioning officer or of any other income-tax authority not below the rank of Income-tax Officer on behalf of the requisitioning officer, and also of the delivering officer or authority. The person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A or any other person on his behalf shall also be permitted to place his seal on the said package or packages. A copy of the list prepared shall be delivered to such person and a copy thereof shall also be forwarded by the delivering officer to the <sup>4</sup>[Chief Commissioner or Commissioner] and also to the <sup>5</sup> [Director-General or Director] where the authorisation under sub-rule (1) has been issued by him.

(4) The provisions of sub-rules (11) to (14) (both inclusive) of rule 112 and of rule 112A, rule 112B and rule 112C shall, so far as may be, apply as if the books of account, other documents and assets delivered to the requisitioning officer under section 132A had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of the said section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-rules and rules, the words

"the requisitioning officer" were substituted.]

1. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f, 1-10-1975.
2. Substituted for "Director of Inspection by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
3. Substituted for "Commissioner", the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
4. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
5. Substituted for "Director of Inspection", ibid.

**112E. Form of information under section 133B(1) :-**

. . <sup>1</sup> The information required to be furnished under sub-section (1) of section 133B shall be in Form No. 45D.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1986, w.e.f. 9-7-1986.

**113. Disclosure of information respecting assessee :-**

. .

<sup>1</sup>(1) The application to the <sup>2</sup>[Chief Commissioner or Commissioner] under <sup>3</sup>[clause (b) of] sub-section (1) of section 138 for information relating to an assessee in respect of any assessment made either under the Act or under the Income Tax Act, 1922 , on or after the 1st day of April, 1960, shall be made in Form No. 46.

(2) The information under <sup>4</sup>[clause (b) of] sub-section (1) of section 138 shall be furnished by the <sup>5</sup>[Chief Commissioner or Commissioner] in Form No. 47.

(3) Where it is not possible for the <sup>5</sup>[Chief Commissioner or Commissioner] to furnish the information asked for by the applicant under <sup>4</sup>[clause (b) of] subsection (1) of section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No. 48.

(4) Where the <sup>5</sup> [Chief Commissioner or Commissioner] is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No. 49.]

1. Substituted by the IT (Third Amdt.) Rules, 1964.

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Inserted by the IT (Second Amdt.) Rules, 1968.

4. Inserted, by the IT (Second Amdt.) Rules, 1968.

5. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

**114. Application for allotment of a permanent account number :-**

. <sup>1</sup>(1) An application under sub-section (1) <sup>2</sup>[or sub-section (1A) or sub-section (2) or sub-section (3)] of section 139A for allotment of a permanent account number shall be made <sup>3</sup>[\* \* \*] in Form No. 49A.

(2) An application referred to in sub-rule (1) shall be made,  
(i) in cases where the function of allotment of permanent account number under section 139A has been assigned by the <sup>4</sup>[Chief Commissioner or Commissioner] to any particular <sup>5</sup>[Assessing Officer], to that [Assessing Officer];

(ii) in any other case, to the <sup>5</sup>[Assessing Officer] having jurisdiction to assess the applicant.

(3) The application referred to in sub-rule (1) shall be made,  
(i) in a case where the total income of the person or the total income of any other person in respect of which he is assessable under the Act during any accounting year exceeds the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, on or before the 31st day of May of the assessment year for which such income is assessable;  
(ii) in the case of a person not falling under clause (i), but carrying on any business <sup>7</sup>[or profession], the total sales, turnover or gross receipts of which are or is likely to exceed <sup>8</sup>[five lakh rupees] in any accounting year and who has not been allotted any permanent account number, before the end of that accounting year;]

<sup>9</sup> [(iii) in the case of a person who is required to furnish a return of income under sub-section (4A) of section 139 and who has not been allotted any permanent account number, before the end of the accounting year.]

1. Inserted by the (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 114 was omitted by the IT (Third Amdt.) Rules, 1964.



2. Substituted for "or sub-section (2)" by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.
3. Words "in duplicate" omitted,
4. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
5. Substituted for "Income-tax Officer",
7. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.
8. Substituted for "fifty thousand rupees",
9. Inserted by the IT (Fifth Amdt.) Rules, 1991, w.e.f. 25-2-1991.

**114A. Application for allotment of a tax deduction account number :-**

[.12.

(1) An application under sub-section (1) of section 203A for the allotment of a tax deduction account number shall be made in duplicate in Form No. 49B.

(2) An application referred to in sub-rule (1) shall be made,

(i) in cases where the function of allotment of tax deduction account number under section 203A has been assigned by the <sup>3</sup>[Chief Commissioner or Commissioner] to any particular <sup>4</sup>[Assessing Officer], to that <sup>4</sup>[Assessing Officer];

(ii) in any other case, to the <sup>4</sup> [Assessing Officer] having jurisdiction to assess the applicant

(3) The application referred to in sub-rule (1) shall be made,

(i) in a case where a person has deducted tax in accordance with the provisions of Chapter XVII under the heading B.Deduction at source prior to the 1 st day of June, 1987, on or before the 30th day of September, 1987;

(ii) in a case where a person has deducted or deducts tax in accordance with the provisions of Chapter XVII under the heading B.Deduction at source on or after the 1st day of June, 1987, within one month from the end of the month in which the tax was deducted or the 30th day of September, 1987, whichever is later.]

1. Inserted by the IT (Fifth Amdt.) Rules, 1987.

2. See also Circular No. 497, dated 9-10-1987. For details, see

Taxmanns Master Guide to Income-tax Rules.

3. Substituted for "Commissioner by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

4. Substituted for "Income-tax Officer",

**114AA. Application for allotment of a tax collection account number :-**

. . - <sup>1</sup> (1) An application under sub-section (1) of section 206CA for the allotment of a tax collection account number shall be made in duplicate in Form No. 49B.

(2) An application referred to in sub-rule (1) shall be made,-

(i) in cases where the function of allotment of tax collection account number under section 206CA has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;

(ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.

(3) The application referred to in sub-rule (1) shall be made,-

(i) in a case where a person has collected a tax in accordance with the provisions of Chapter XVII under the heading BB.- Collection at source prior to the 1st day of June, 2002, on or before the 30th day of September, 2002;

(ii) in a case where a person has collected or collects tax in accordance with the provisions of Chapter XVII under the heading BB.- Collection at source on or after the 1st day of June, 2002, within one month from the end of the month in which the tax was collected or the 30th day of September, 2002, whichever is later.

1. Inserted by "The Income Tax (Twentieth Amendment) Rules, 2002, W.e.f.8/7/2002

**114B. All documents pertaining to the transactions in relation to which permanent account number or General Index Register Number to be quoted for the purpose of clause (c) of sub-section (5) of section 139A :-**

. . <sup>1</sup> Every person shall quote his permanent account number or General Index Register Number in all documents pertaining to the transactions specified below, namely :

- (a) sale or purchase of any immovable property valued at five lakh rupees or more;
- (b) sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of Section 2 of the Motor Vehicles Act, 1988 , which requires registration by a registering authority under Chapter IV of that Act:  
<sup>2</sup>[Provided that for the purposes of this clause, the sale or 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 fifty thousand rupees, 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);
- (d) a deposit, exceeding fifty thousand rupees, in any account with Post Office Savings Bank;
- (e) a contract of a value exceeding <sup>3</sup>[one] lakh rupees for sale or purchase of securities as defined in clause (h) of S.2 of the Securities Contracts (Regulation) Act, 1956;
- (f) opening an account <sup>4</sup>[not being a time-deposit referred to in clause (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);
- (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 twenty-five thousand rupees at any one time :  
<sup>5</sup>[(i) payment in cash for purchase of bank drafts or pay orders or bankers cheques from a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) for an amount aggregating fifty thousand rupees or more during any one day;
- (j) deposit in cash aggregating fifty thousand rupees 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 in connection with travel to any foreign country of an amount exceeding twenty-five thousand rupees at any one time.

Explanation. For the purposes of this clause, (a) "payment in cash in

connection with travel" includes payment in cash towards fare, or to a travel agent or a tour operator, or for the purchase of foreign currency; (b) the expression travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as may be specified by the Board under Explanation 3 of sub-section (1) of section 139.]

Provided that a person shall quote General Index Register Number in the documents pertaining to transactions specified in the above clauses (a) to <sup>6</sup>[(k)] till such time the permanent account number is allotted to him:

Provided further that where a person, making an application for opening an account referred to in <sup>7</sup>[clause (c) and] clause (f) of this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number or General Index Register Number of his father or mother or guardian, as the case may be, in the document pertaining to the transaction referred to in said <sup>7</sup>[clause (c) and] clause (f):

Provided also that any person, who has not been allotted a permanent account number or who does not have a General Index Register Number and who makes payment in cash or otherwise than by a crossed cheque drawn on a <sup>9</sup>[bank or through credit card issued by any bank] in respect of any transaction specified in clauses (a) to <sup>6</sup> [(k)], shall make a declaration in Form No. 60 giving therein the particulars of such transaction.

1. Rules 114B to 114D inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998.

2. Inserted by the IT (Twenty-fourth Amdt.) Rules, 1998, w.e.f. 1-11-1998.

3. Substituted for "ten" by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

4. Inserted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

5. Clauses (i) to (k) inserted by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

6. Substituted for (h), by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

7. Inserted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

9. Substituted for "banker by a crossed bank draft", by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002. .

**114C. Class or classes of persons to whom provisions of section 139A shall not apply :-**

. .

(1) The provisions of section 139A shall not apply to following class or classes of persons, namely :

(a) the persons who have agricultural income and are not in receipt of any other income chargeable to income-tax : Provided that such persons shall make declaration in Form No. 61 in respect of transactions referred to in clauses (a) to <sup>1</sup>[(k)] of rule 114B

(b) the non-residents referred to in clause (30) of section 2;

<sup>2</sup>[\* \* \*]

<sup>3</sup>[(c) Central Government, State Governments and Consular Offices in transactions where they are the payers.]

(2) Every person including,

(a) a registering officer appointed under the Registration Act, 1908 ;

(b) a registering authority referred to in clause (b) of <sup>4</sup>[rule 114B];

(c) any manager or officer of a banking company referred to in clause (c) <sup>4</sup>[or clause (1) or clause (j)] of <sup>6</sup>[rule 114B];

(d) post master;

(e) stock broker, sub-broker, share transfer agent, banker to an issue, trustee of a trust deed, registrar to issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediaries registered under Section 12 of the Securities and Exchange Board of India Act, 1992 ;

(f) any authority or company receiving application for installation of a telephone by it;

(g) any person raising bills referred to in clause (h) <sup>7</sup>[or clause (k)] of <sup>5</sup>[rule 114B];

<sup>9</sup>[(h) any person who purchases or sells the immovable property or motor vehicle; who has received any document relating to a transaction specified under clauses (a) to <sup>10</sup> [(k)] of rule 114B shall ensure after verification that permanent account number or General Index Register Number has been duly and correctly quoted in the document or declaration received by such person.]

1. Substituted for (h), by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

2. Proviso omitted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999. Prior to its omission, proviso to clause (b), as inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998, read as under: "Provided that a non-resident, who enters into any transaction referred to in clauses (a) to (h) of rule 114B, shall furnish copy of his passport."

3. Inserted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

4. Substituted for "sub-rule (1)", by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

6. Substituted for "sub-rule (1) by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

7. Inserted by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

9. Substituted, *ibid.* Prior to its substitution, clause (h), as inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998, read as under : (h) any person who purchases or sells the immovable property or motor vehicle, receiving any document relating to a transaction specified under clauses (a) to (h) of sub-rule (1) of rule 114B shall ensure that permanent account number or General Index Register Number has been duly quoted in the document or declaration in Form No. 60 or Form No. 61, as the case may be, received by such person.

10. Substituted for "(h)" by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

**114D. Time and manner in which persons referred to in sub-rule (2) of rule 114C shall intimate the details of transaction to the Director of Income-tax (Investigation) :-**

.<sup>1</sup> (1) Every person referred to in sub-rule (2) of rule 114C shall forward to the concerned Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch), the following documents, namely :

(a) a statement indicating therein details of all documents pertaining to any transaction referred to in clauses (a) to (k) of rule 114B where payment is made in cash;

(b) the statement referred to in clause (a) shall contain,

(i) name and address of the person entering into the transactions;

(ii) nature and date of the transaction;

(iii) amount of each transaction;

- (iv) permanent account number or General Index Register Number quoted in the documents pertaining to any transaction;
- (c) copies of declaration in Form No. 60 referred to in third proviso to rule 114B;
- (d) copies of declaration in Form No. 61 referred to in clause (a) of sub-rule (1) of rule 114C:

Provided that copies of declaration furnished in respect of transactions referred to in clause (f) of rule 114B shall not be furnished to the Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch).

(2) The statement and copies of declaration in Form Nos. 60 and 61 referred to in sub-rule (1) shall be forwarded to the concerned Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch) in two instalments, that is, the forms received up to 30th September, shall be forwarded latest by 31st October of that year and the declaration till the 31st March shall be furnished latest by 30th April of the same year.]

1. Substituted by the IT (Ninth Amdt.) Rules, 2002, w.e.f. 19-6-2002. Prior to its substitution it was inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998 and later substituted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999, read as under : "114D. Time and manner in which person referred to in sub-rule (2) of rule 114C shall intimate the details of transaction to the Director of Income-tax (Investigation). (1) Every person referred to in sub-rule (2) of rule 114C shall forward to the concerned Director of Income-tax (Investigation), (a) copies of declaration of Form No. 60 referred to in third proviso to rule 114B; (b) copies of declaration in Form No. 61 referred to in proviso to clause (a) of sub-rule (1) of rule 114C : Provided that copies of declaration furnished in respect of transactions referred to in clause (f) of rule 114B shall not be furnished to the Director of Income-tax (Investigation) (2) All declaration in Form Nos. 60 and 61 received during a financial year shall be forwarded to the concerned Director of Income-tax (Investigation) in two instalments, that is, the forms received upto 30th September, shall be forwarded latest by 31st October of that year and the declaration till the 31st March shall be furnished latest by 30th April of the same year"

**115. Rate of exchange for conversion into rupees of income expressed in foreign currency :-**

. .

**12**[(1)] The rate of exchange for the calculation of the value in rupees of any income accruing or arising or deemed to accrue or

arise to the assessee in foreign currency or received or deemed to be received by him or on his behalf in foreign currency shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation: For the purposes of this rule,

(1) "telegraphic transfer buying rate" shall have the same meaning as in the Explanation to rule 26;

(a) in respect of income chargeable under the head "Salaries", the last day of the month immediately preceding the month in which the salary is due, or is paid in advance or in arrears;

(b) in respect of income <sup>3</sup>[by way of] "interest on securities", the last day of the month immediately preceding the month in which the income is due;

(c) in respect of income chargeable under the heads "Income from house property", "Profits and gains of business or profession" [not being income referred to in clause (d)] and "Income from other sources" (not being income by way of dividends [and "Interest on securities"]), the last day of the previous year of the assessee;

(d) in respect of income chargeable under the head "Profits and gains of business or profession" in the case of a non-resident engaged in the business of operation of ships, the last day of the month immediately preceding the month in which such income is deemed to accrue or arise in India ;

(e) in respect of income by way of dividends, the last day of the month immediately preceding the month in which the dividend is declared, distributed or paid by the company;

(f) in respect of income chargeable under the head "Capital gains", the last day of the month immediately preceding the month in which the capital asset is transferred :]

<sup>4</sup>[Provided that the specified date, in respect of income referred to in sub-clauses (a) to (f) payable in foreign currency and from which tax has been deducted at source under rule 26, shall be <sup>5</sup>[the date on which the tax was required to be deducted] under the provisions of the Chapter XVII-B].

<sup>6</sup> [(2) Nothing contained in sub-rule (1) shall apply in respect of income referred to in clause (c) of the Explanation to sub-rule (1) where such income is received in, or brought into India by the assessee or on his behalf before the specified date in accordance with the provisions of the Foreign Exchange Regulation Act, 1973.]

1. Substituted by the IT (Eighth Amdt.) Rules, 1977, w.e.f. 1-11-1977. Rule 115 was- first substituted by the IT (Third Amdt.)



Rules, 1967 and later amended by the IT (Second Amdt.) Rules, 1968.

2. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.f. 1-4-1990.

3. Substituted for "chargeable under the head" by the IT (Fifth Amdt.) Rules, 1989, w.e.f 18-5-1989.

4. Inserted by the IT (Ninth Amdt.) Rules, 1993, w.e.f. 25-5-1993.

5. Substituted for "the date on which the tax has been so deducted" by the IT (Third Amdt.) Rules, 1995, w.e.f. 9-5-1995.

6. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.t. 1-4-1990.

**115A. Rate of exchange for conversion of rupees into foreign currency and reconversion of foreign currency into rupees for the purpose of computation of capital gains under the proviso to clause (a) of sub-section (1) of section 48 of the Act :-**

. .<sup>1</sup> For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident Indian, the rate of exchange shall be :

(a) for converting the cost of acquisition of the capital asset, the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of its acquisition;

(b) for converting expenditure incurred wholly and exclusively in connection with the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;

(c) for converting the full value of consideration received or accruing as a result of the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;

(d) for reconverting capital gains computed in the foreign currency initially utilised in the purchase of the capital asset into rupees, the

telegraphic transfer buying rate of such currency, as on the date of transfer of the capital asset.

Explanation: For the purposes of this rule

(i) "telegraphic transfer buying rate" shall have the same meaning as in the Explanation to rule 26;

(ii) "telegraphic transfer selling rate", in relation to a foreign currency, means the rate of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for selling such currency where such currency is made available by that bank through telegraphic transfer.]

1. Inserted by the IT (Fourth Amdt.) Rules, 1991, w.r.e.f. 1-4-1990.

### **116. Return of interest paid. :-**

. <sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

1. Prior to its omission, rule 116, as amended by the IT (Ninth Amdt.) Rules, 1977, w.e.f. 1-4-1978. stood as under : "116. (1) A return shall be furnished under section 285 by the person responsible for paying interest, not being interest on securities, in respect of amounts of interest or aggregate interest exceeding Rs. 1,000. (2) The return referred to in sub-rule (1) shall be made in Form No. 50."

### **117. Return of dividends paid :-**

. <sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

1. Prior to its omission, rule 117 read as under : " 117. (1) A return shall be furnished by the principal officer of a company under section 286 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of dividend or aggregate dividends if the amount thereof exceeds Rs. 5,000 in the case of any other shareholder. (2) The return referred to in sub-rule (1) shall be made in Form No. 51 and shall be delivered to the Income-tax Officer, who assesses the company."

### **117A. Reduction or waiver of interest payable under section 139 :-**

.. <sup>12</sup>[In respect of assessment relating to an assessment year commencing on or before the first day of April, 1988, the Assessing Officer] may reduce or waive the interest payable under section 139 in the cases and in the circumstances mentioned below, namely :

(i) where the return of income is furnished by a person who has been treated under section 163 as an agent of a non-resident and is assessed in respect of the latter's income ;

(ii) where the return of income is furnished by an assessee whose only source of income during the relevant previous year is a share in the income of an unregistered firm which has been assessed on its total income in respect of that previous year under clause (b) of section 183;

{iii) where the return of income of a deceased individual is furnished by his legal representative and the legal representative satisfies the <sup>3</sup>[Assessing Officer] that he had sufficient cause for not furnishing such return within time;

(iv) where the return of income has been furnished in pursuance of a notice issued under section 148;

(v) any case in which the assessee produces evidence to the satisfaction of the <sup>3</sup>[Assessing Officer] that he was prevented by sufficient cause from furnishing the return within time :

Provided that the previous approval of the <sup>5</sup> [Deputy Commissioner] has been obtained where the amount of interest reduced or waived, as the case may be, under clause (iv) or clause (v) exceeds one thousand rupees.

1. Inserted by the IT (Second Amdt.) Rules, 1964.

2. Substituted for "The Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

3. Substituted for "Income-tax Officer", *ibid.*, w.r.e.f. 1-4-1988.

5. Substituted for "Inspecting Assistant Commissioner",

### **117B. Form of statement under section 222 or section 223**

:-

.. <sup>1</sup> A statement under section 222 or section 223 shall be drawn up by the Tax Recovery Officer in Form No. 57.]

1. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

**118. Levy of interest under section 220(2) where a recovery certificate is not issued :-**

. .<sup>1</sup> [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

1. Prior to its omission, rule 118, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under : "118. (1) Subject to the provision of rule 119 and sub-rule (2) of this rule, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 at the end of each financial year if the amount of tax, penalty or other sum in respect of which such interest is payable has not been paid in full before the end of any such financial year and a notice of demand under section 156 shall be issued accordingly. (2) Subject to the provisions of rule 119, if the amount of tax, penalty or other sum in respect of which such interest is payable is paid up before the end of any financial year, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 up to the date on which the payment of such tax, penalty or other sum is completed and a notice of demand under section 156 shall be issued accordingly."

**119. Levy of Interest under section 220(2) in a case where a recovery certificate is issued :-**

. .<sup>1</sup> [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

1. Prior to its omission, rule 119, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 read as under : "119. (1) At the time of issuing a certificate under section 222, the Assessing Officer shall calculate the interest payable under sub-section (2) or section 220 on the amount of arrears of tax, penalty or other sum up to the date of the issue of the certificate. (2) The amount of interest calculated under sub-rule (1) as reduced by the amount of such interest, if any, paid by the assessee before the issue of the certificate shall be indicated in the certificate issued by the Assessing Officer. (3) The amount of interest referred to in sub-rule (2) and the further interest similarly calculated for the period commencing immediately after the date of the issue of the certificate, shall be recoverable from the defaulter along with the amount of tax, penalty or other sum mentioned in the certificate."

**119A. Procedure to be followed in calculating interest :-**

. .<sup>1</sup> In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,

(a) where 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;

(c) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees 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.]

1. Substituted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989. Prior to its substitution, rule 119A, as inserted by the IT (Sixth Amdt.) Rules, 1974, w.e.f. 1-1-1975, read as under : "119A. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act, (a) 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) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees 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."

## **120. Form for furnishing particulars by contractor :-**

. .<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 1965]

1. Prior to its omission, rule 120 read as under : "120. The particulars required to be furnished under sub-section (1) of section 285A by a contractor shall be in Form No. 52."

## **121. Procedure for imposition of fine :-**

. .<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 7965.]

1. Prior to its omission, rule 121 read as under : "121. No order imposing a fine under sub-section (2) of section 285A shall be made unless the contractor has been given a reasonable opportunity of being heard."

## **121A. Form of statement to be furnished by producer of cinematograph films :-**

..<sup>1</sup> The statement required to be furnished under section 285B by a person carrying on production of cinematograph films shall be in Form No. 52A.]

1. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

## **122. Notice in respect of properties held benami :-**

. .<sup>1</sup> [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989}]

1. Prior to its omission, rule 122, as inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972 and amended by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984, stood as under : "122. The notice to be given to the Commissioner under sub-section (1) or sub-section (1A) or sub-section (1B) of section 281A by a person claiming to be the real owner of any property held benami shall be in Form No. 53."

## **123. Application for obtaining certified copies of certain notices :-**

.<sup>1</sup>. An application to the<sup>2</sup>[Chief Commissioner or Commissioner] under subsection (2) of section 281 A<sup>3</sup> for furnishing a certified copy of the notice given under sub-section (1) or sub-section (1 A) or sub-section (1 B) of that section shall be made in Form No. 54.]

1. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

2. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules,

1989, w.r.e.f. 1-4-1988.

3. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

#### **124. Fees for obtaining certified copy of notice :-**

.<sup>1</sup>Fees to be paid for the issue of a certified copy of the notice given under subsection (1) or sub-section (1A) or sub-section (1B) of section 281A<sup>2</sup> shall be two rupees for every such copy.]

1. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

2. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

#### **125. Deductions and allowances for the transitional previous year relating to assessment year 1989-90 :-**

. . <sup>1</sup> [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999}

1. Prior to its omission, rule 125, as inserted by the IT (Sixth Amdt.) Rules, 1989, w.e.f. 1-4-1989, read as under : 125. Deductions and allowances for the transitional previous year relating to assessment year 1989- 90. Where more than one period in respect of different sources of income are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3 of the Income-tax Act (hereinafter referred to as "said Act"), the amount or amounts specified in column (2) of the Table mentioned in rule 3 of the Tenth Schedule (hereinafter referred to as the "said Table) to the said Act, shall be increased in the following manner: (i) the amount/amounts mentioned against the entries in column (1) of the said Table, namely, against sections 10(3), 12A(b), 13(2)(g), 80C(1), 80C(3), 80C(4), 80C(7)(c), 80CC(2), 80CCA(1), 80D(1) and 80U of the said Act shall be increased by multiplying it/them by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is 12; (iii) the amount/amounts mentioned against the entries in column (1) of the said Table, namely, against section 16(i), proviso to section 16(i), sections 16(ii), 23(l)(d)(ii), proviso to section 24(2), proviso to section 33A(7), sections 35A, 35AB, 35D, 37(2A), 40A(12), 44AA(2)(i) and (ii), 44AB, 80L(1) and first proviso to section 80L(1), second proviso to section 80L(1), section 80P(2)(c), section 80P(2)(f) and section 139A(2) of the said Act shall be increased by multiplying

it/them by a fraction of which the numerator is the number of months in the period included in the transitional previous year in respect of that particular source of income to which the amount or amounts relate, and the denominator is 12: Provided that where the assessee has followed different periods for different sources, under the same head of income, the longest of such period shall be taken for the purposes of this sub-rule: Provided further that in cases of amounts mentioned against sections 35A, 35AB and 35D, the total of the allowances or deduction allowed in the earlier years and the increased allowance or deduction allowable in the transitional previous year, shall in no case exceed the total amount of expenditure or expenses as the case may be.