

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 2 of the Income-tax Act,—

Amendment of
section 2.

50 (a) after clause (12), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:—

‘(12A) “books or books of account” include ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;’;

55 (b) after clause (22A), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:—

‘(22AA) “document” includes an electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;’;

(c) in clause (24), in sub-clause (ix), the following *Explanation* shall be inserted with effect from the 1st day of April, 2002, namely:—

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

(i) “lottery” includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called; 5

(ii) “card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;’

(d) after clause (28B), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:— 10

‘(28BB) “insurer” means an insurer being an Indian insurance company, as defined under clause (7A) of section 2 of the Insurance Act, 1938, which has been granted a certificate of registration under section 3 of that Act;’. 4 of 1938.

Amendment of section 9. 4. In section 9 of the Income-tax Act, in sub-section (1), in clause (vi), in *Explanation* 2, with effect from the 1st day of April, 2002,— 15

(i) after clause (iv), the following clause shall be inserted, namely:—

“(iva) the use or right to use, any industrial, commercial or scientific equipment;”;

(ii) in clause (vi), for the words, brackets and figures “sub-clauses (i) to (v)”, the words, brackets, figures and letter “sub-clauses (i) to (iv), (iva) and (v)” shall be substituted.

Amendment of section 10. 5. In section 10 of the Income-tax Act,— 20

(a) in clause (10C),—

(i) after sub-clause (vii), the following sub-clause shall be inserted, namely:—

“(viiia) any State Government; or”;

(ii) after sub-clause (viiia) as so inserted, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:— 25

“(viiib) the Central Government; or”;

(b) in clause (15), with effect from the 1st day of April, 2002,—

(i) in sub-clause (iv),—

(A) for item (a), the following item shall be substituted, namely:—

“(a) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;”;

(B) in item (b), for the words “a loan agreement entered into with any such financial institution”, the words, figures and letters “a loan agreement entered into before the 1st day of June, 2001 with any such financial institution” shall be substituted; 35

(C) in item (c), for the words “moneys borrowed or debt incurred by it”, the words, figures and letters “moneys borrowed or debt incurred by it before the 1st day of June, 2001” shall be substituted;

(D) in items (d) and (e), for the words “any moneys borrowed by it from sources outside India”, the words, figures and letters “any moneys borrowed by it from sources outside India before the 1st day of June, 2001” shall be substituted; 40

(E) in item (f), for the words “a loan agreement approved by the Central Government”, the words, figures and letters “a loan agreement approved by the Central Government before the 1st day of June, 2001” shall be substituted;

(ii) for *Explanation* 1A to sub-clause (iv), the following *Explanation* shall be substituted, namely:— 45

‘*Explanation* 1A.—For the purposes of this sub-clause, the expression “interest” shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent. per annum over the rate of interest payable in terms of such loan.’;

(c) in clause (23AAB), with effect from the 1st day of April, 2002,—

(i) in the opening portion, for the words “under a pension scheme”, the words “or any other insurer under a pension scheme” shall be substituted; 50

- 41 of 1999. (ii) in sub-clause (ii), after the words “the Controller of Insurance”, the words, brackets and figures “or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999, as the case may be” shall be inserted;
- 5 (d) after clause (23BBC), the following clause shall be inserted, namely:—
- 21 of 1860. '(23BBD) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 for three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004;'
- 10 (e) in clause (23C), with effect from the 1st day of April, 2002,—
- (a) in the third proviso,—
- (i) in clause (a), after the words “the objects for which it is established”, the words, figures and letters “and in a case where any income is accumulated on or after the 1st day of April, 2001, the period of such accumulation shall in no case exceed five years” shall be inserted;
- 15 (ii) in clause (b),—
- (A) after sub-clause (i), the following sub-clause shall be inserted, namely:—
- “*(ia)* any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;”;
- 20 (B) in sub-clause (iii), after the word, brackets and figure “sub-clause (i)”, the words, brackets, figure and letter “and sub-clause (*ia*)” shall be inserted;
- (b) after the eighth proviso, the following proviso shall be inserted, namely:—
- “Provided also that where the total receipts of the fund or institution referred to in sub-clause (iv) or of any trust or institution referred to in sub-clause (v) exceed ten lakh rupees or where the total receipts of any university or other educational institution referred to in sub-clause (vi) or of any hospital or other institution referred to in sub-clause (*via*) exceed one crore rupees in any previous year, the fund or trust or institution or university or other educational institution or hospital or other institution, as the case may be, shall—
- 25 (i) publish its accounts in a local newspaper; and
- 30 (ii) furnish along with the application prescribed in the first proviso to this clause, the copy of the local newspaper in which such accounts have been published;”;
- (f) in clause (23FB),—
- 35 (a) the *Explanation* shall be numbered as *Explanation 1* thereof, and in *Explanation 1* as so numbered, in clause (b), for sub-clause (i), the following sub-clause shall be substituted, namely:—
- “*(i)* operating under a trust deed registered under the provisions of the Registration Act, 1908 or operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963;”;
- 16 of 1908.
52 of 1963. (b) after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—
- 40 “*Explanation 2.*—For the removal of doubts, it is hereby declared that the income of a venture capital company or venture capital fund shall continue to be exempt if the shares of the venture capital undertaking, in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India;”;
- (g) in clause (23G), with effect from the 1st day of April, 2002,—
- 45 (a) after the words “an infrastructure capital fund or an infrastructure capital company”, the words “or a co-operative bank” shall be inserted;
- (b) for the words, brackets and figures “any enterprise wholly engaged in the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating any infrastructure facility”, the words, brackets, figures and letters “any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA” shall be substituted;
- 50 (c) in *Explanation 1*,—
- (i) clause (c) shall be omitted;

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

‘(e) “co-operative bank” shall have the meaning assigned to it in clause (dd) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961; 47 of 1961.

(f) “interest” includes any fee or commission received by a financial institution for giving any guarantee to, or providing credit rating in respect of, an enterprise which has been approved by the Central Government for the purposes of this clause.’; 5

(h) in clause (33), after sub-clause (iii), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

“Provided that this clause shall not apply to any income arising from transfer of units of the Unit Trust of India or a mutual fund to a person other than the Unit Trust of India or such mutual fund.”. 10

Amendment
of section
10A.

6. In section 10A of the Income-tax Act,—

(a) in sub-section (1),—

(i) in the second proviso, for the words “undertaking was first set up”, the words “undertaking began to manufacture or produce such articles or things or computer software” shall be substituted;

(ii) the third proviso shall be omitted with effect from the 1st day of April, 2002; 15

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

“(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.”; 20

(c) after sub-section (9),—

(i) in *Explanation 1*, for the words “in the case of a company”, the words “in the case of a company, not being a company in which the public are substantially interested,” shall be substituted;

(ii) in *Explanation 2*, in clause (iv), for the words “in respect of export”, the words “in respect of export by the undertaking” shall be substituted; 25

(iii) after *Explanation 2*, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation 3*.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.”. 30

Amendment of
section 10B.

7. In section 10B of the Income-tax Act,—

(a) in sub-section (1), the second proviso shall be omitted with effect from the 1st day of April, 2002;

(b) for sub-section (4), the following sub-section shall be substituted, namely:— 35

“(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.”;

(c) after sub-section (9),— 40

(i) in *Explanation 1*, for the words “in the case of a company”, the words “in the case of a company, not being a company in which the public are substantially interested,” shall be substituted;

(ii) in *Explanation 2*, in clause (iii), for the words “in respect of export”, the words “in respect of export by the undertaking” shall be substituted;

(iii) after *Explanation 2*, the following *Explanation* shall be inserted at the end, namely:— 45

“*Explanation 3*.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.”.

Insertion of
new section
10BB.

8. After section 10B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:— 50

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| 10 of 2000. | '10BB. The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000, shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.' | Meaning of computer programmes in certain cases. |
| 5 | 9. In section 11 of the Income-tax Act, in sub-section (2), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2002, namely:— 'Provided further that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.' | Amendment of section 11. |
| 10 | 10. In section 12A of the Income-tax Act, after clause (b), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:— "(c) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds ten lakh rupees in any previous year, the trust or institution— (i) publishes its accounts in a local newspaper, before the due date for furnishing the return of income under sub-section (4A) of section 139; and (ii) furnishes a copy of such newspaper along with such return." | Amendment of section 12A. |
| 15 | 11. After section 14 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:— | Insertion of new section 14A. |
| 20 | "14A. For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act." | Expenditure incurred in relation to income not includible in total income. |
| | 12. In section 16 of the Income-tax Act, for clause (ii), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:— | Amendment of section 16. |
| 25 | "(ii) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;" | |
| | 13. In section 17 of the Income-tax Act,— | Amendment of section 17. |
| 30 | (a) in clause (2),— (i) in sub-clause (iii),— (A) in item (c), for the words "twenty-four thousand rupees", the words "fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2002; (B) in the proviso, for the words "the Employees' Stock Option Plan or Scheme of the said company", the words and figures "the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme, offered to such employees in accordance with the guidelines issued by the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992" shall be substituted; | |
| 35 | (ii) after sub-clause (vii), the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:— "(viii) the value of any other fringe benefit or amenity as may be prescribed;" | |
| 40 | (b) in clause (3), after sub-clause (ii) and the <i>Explanation</i> relating thereto, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:— "(iii) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person— (A) before his joining any employment with that person; or (B) after cessation of his employment with that person." | |
| 45 | 14. For section 23 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:— | Substitution of new section for section 23. |
| 50 | "23. (1) For the purposes of section 22, the annual value of any property shall be deemed to be— (a) the sum for which the property might reasonably be expected to let from year to year; or (b) where the property or any part of the property is let and the actual rent received or receivable | Annual value how determined. |

by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or

(c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable:

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Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

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(2) Where the property consists of a house or part of a house which—

(a) is in the occupation of the owner for the purposes of his own residence; or

(b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

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the annual value of such house or part of the house shall be taken to be *nil*.

(3) The provisions of sub-section (2) shall not apply if—

(a) the house or part of the house is actually let during the whole or any part of the previous year; or

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(b) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than one house—

(a) the provisions of that sub-section shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf;

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(b) the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let.”.

Substitution of new section for section 24. Deductions from income from house property.

15. For section 24 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:—

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‘24. Income chargeable under the head “Income from house property” shall be computed after making the following deductions, namely:—

(a) a sum equal to thirty per cent. of the annual value;

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

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Provided that in respect of property referred to in sub-section (2) of section 23; the amount of deduction shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2003, the amount of deduction under this clause shall not exceed one lakh fifty thousand rupees.

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Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years’.

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Amendment of section 25.

16. In section 25 of the Income-tax Act, the words “annual charge or” shall be omitted with effect from the 1st day of April, 2002.

Amendment of section 25A.

17. In section 25A of the Income-tax Act, with effect from the 1st day of April, 2002,—

(a) after the words, brackets and figures “under clause (x) of sub-section (1) of section 24”, the words and figures “as it stood immediately before its substitution by the Finance Act, 2001” shall be inserted;

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(b) after the words and figures “under section 23 or section 24”, the words and figures “as it stood immediately before its substitution by the Finance Act, 2001” shall be inserted.

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| | 18. After section 25A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:— | Insertion of new section 25AA. |
| 5 | '25AA. Where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head “Income from house property” and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year.' | Unrealised rent received subsequently to be charged to income-tax. |
| 10 | 19. In section 25B of the Income-tax Act, for the words “a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property”, the words “a sum equal to thirty per cent. of such amount” shall be substituted with effect from the 1st day of April, 2002. | Amendment of section 25B. |
| | 20. In section 27 of the Income-tax Act, clauses (iv) and (v) shall be omitted with effect from the 1st day of April, 2002. | Amendment of section 27. |
| 15 | 21. In section 32 of the Income-tax Act, with effect from the 1st day of April, 2002,— (a) in sub-section (1), in clause (ii), after <i>Explanation 4</i> , the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation 5.</i> —For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;”; | Amendment of section 32. |
| 20 | (b) for sub-section (2), the following sub-section shall be substituted, namely:— “(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.”. | |
| 30 | 22. In section 33AB of the Income-tax Act, in sub-section (1), for the words “a sum equal to twenty per cent. of the profits”, the words “a sum equal to forty per cent. of the profits” shall be substituted with effect from the 1st day of April, 2002. | Amendment of section 33AB. |
| | 23. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2002,— (a) in sub-section (24A),— (i) for the words “University or an Indian Institute of Technology”, the words “University or an Indian Institute of Technology or a specified person” shall be substituted; (ii) in the <i>Explanation</i> , after clause (c), the following clause shall be inserted, namely:— “(d) “specified person” means such person as is approved by the prescribed authority;”; | Amendment of section 35. |
| 35 | (b) in sub-section (24B),— (i) in clause (1), for the words “engaged in the business of”, the words “engaged in the business of bio-technology or in the business of” shall be substituted; (ii) after clause (1), the following <i>Explanation</i> shall be inserted, namely:— “ <i>Explanation.</i> —For the purposes of this clause, “expenditure on scientific research”, in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970.”. | |
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| 39 of 1970. | | |
| | 24. After section 35DD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:— “35DDA. (1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years: | Insertion of new section 35DDA. Amortisation of expenditure incurred under voluntary retirement scheme. |
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