

Provided that such payment is made under the scheme or schemes framed in accordance with the guidelines prescribed under the proviso to clause (10C) of section 10.

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.”.

Amendment  
of section  
43B.

**25.** In section 43B of the Income-tax Act, with effect from the 1st day of April, 2002,— 5

(i) in clause (e), the word “or” shall be inserted at the end;

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

“(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee;”;

(iii) in the first proviso, after the word, brackets and letter “clause (e)”, the words, brackets and letter “or clause (f)” shall be inserted; 10

(iv) after *Explanation* 3A, the following *Explanation* shall be inserted, namely:—

“*Explanation* 3B.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (f) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.”. 15

Amendment  
of section  
44AB.

**26.** In section 44AB of the Income-tax Act,— 20

(a) in the second proviso, after the words “and a further report”, the words “by an accountant” shall be inserted;

(b) in the *Explanation* occurring at the end, for clause (ii), the following clause shall be substituted, namely:—

“(ii) “specified date”, in relation to the accounts of the previous year relevant to an assessment year, means,— 25

(a) where the assessee is a company, the 31st day of October of the assessment year;

(b) in any other case, the 31st day of July of the assessment year.’.

Amendment  
of section 47.

**27.** In section 47 of the Income-tax Act,—

(a) in clause (iii), in the proviso, for the words “the Employees’ Stock Option Plan or Scheme”, the words and figures “the Employees’ Stock Option Scheme or Employees’ Stock Purchase Scheme framed 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; 30 15 of 1992.

(b) in clause (viiia), for the word “shares”, the words “Global Depository Receipts” shall be substituted with effect from the 1st day of April, 2002. 35

Amendment  
of section 49.

**28.** In section 49 of the Income-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

“(24A) Where the capital gain arises from the transfer of the shares, debentures or warrants, the value of which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such shares, debentures or warrants shall be the value under that clause.”. 40

Amendment  
of section  
54EC.

**29.** In section 54EC of the Income-tax Act, in the *Explanation* occurring at the end, for clause (b), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:—

“(b) “long-term specified asset” means any bond redeemable after three years, issued,—

(i) on or after the 1st day of April, 2000, by the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 or by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988; 45 61 of 1981. 68 of 1988.

(ii) on or after the 1st day of April, 2001, by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956.’. 50 1 of 1956.

Insertion of  
new section  
54ED.

**30.** After section 54EC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

- 5 '54ED. (1) Where the capital gain arises from the transfer of a long-term capital asset, being listed securities or unit (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares being hereafter in this section referred to as the specified equity shares), the said capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—
- Capital gain on transfer of certain listed securities or unit, not to be charged in certain cases.
- 10 (a) if the cost of the specified equity shares is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;
- (b) if the cost of the specified equity shares is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the specified equity shares acquired bears to the whole of the capital gain shall not be charged under section 45.
- 15 *Explanation.*—For the purposes of this sub-section—
- (i) "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:—
- (a) the issue is made by a public company formed and registered in India;
- (b) the shares forming part of the issue are offered for subscription to the public;
- 20 (ii) "listed securities" shall have the same meaning as in clause (a) of the *Explanation* to sub-section (1) of section 112;
- (iii) "unit" shall have the meaning assigned to it in clause (b) of the *Explanation* to section 115AB.
- 25 (2) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.
- 30 (3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.
31. In section 54H of the Income-tax Act, for the figures and letters "54EA, 54EB", the figures and letters "54EC" shall be substituted. Amendment of section 54H.
- 35 32. In section 55 of the Income-tax Act, in sub-section (2), in clause (a), after the words "goodwill of a business", the words "or a trade mark or brand name associated with a business" shall be inserted with effect from the 1st day of April, 2002. Amendment of section 55.
33. In section 72A of the Income-tax Act, in sub-section (7), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:— Amendment of section 72A.
- 40 (aa) "industrial undertaking" means any undertaking which is engaged in—
- (i) the manufacture or processing of goods; or
- (ii) the manufacture of computer software; or
- (iii) the business of generation or distribution of electricity or any other form of power; or
- 45 (iv) mining; or
- (v) the construction of ships, aircrafts or rail systems;.
34. In section 80CCC of the Income-tax Act, in sub-section (1), after the words "Life Insurance Corporation of India", the words "or any other insurer" shall be inserted with effect from the 1st day of April, 2002. Amendment of section 80CCC.
- 50 35. In section 80D of the Income-tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2002, namely:— Amendment of section 80D.
- "Provided that such insurance shall be in accordance with a scheme framed in this behalf by—
- (a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or

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

41 of 1999.

Amendment  
of section  
80DD.

**36.** In section 80DD of the Income-tax Act, in sub-section (1), in clause (b), for the words “Unit Trust of India”, the words “any other insurer or Unit Trust of India” shall be substituted with effect from the 1st day of April, 2002. 5

Amendment  
of section  
80G.

**37.** In section 80G of the Income-tax Act, with effect from the 1st day of April, 2002,—

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letters “or sub-clause (iiihh)”, the words, brackets, figures and letters “or sub-clause (iiihj)” shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiihh), the following sub-clause shall be inserted, namely:— 10

“(iiihj) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; or”.

15 44 of 1999.

Amendment  
of section  
80GG.

**38.** In section 80GG of the Income-tax Act, in the proviso, in clause (ii), for the words, brackets, figures and letters “under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23”, the words, brackets, letters and figures “under clause (a) of sub-section (2) or, as the case may be, clause (a) of sub-section (4) of section 23” shall be substituted with effect from the 1st day of April, 2002. 20

Amendment  
of section  
80HHE.

**39.** In section 80HHE of the Income-tax Act, after sub-section (1), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—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.”. 25

Amendment  
of section  
80-IA.

**40.** In section 80-IA of the Income-tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2002, namely:—

“(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent. of profits and gains derived from such business for ten consecutive assessment years.”; 30 35

(b) in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2002, namely:—

‘Provided that where the assessee develops or operates and maintains or develops, operates and maintains any infrastructure facility referred to in clause (a) or clause (b) or clause (c) of the *Explanation* to clause (i) of sub-section (4), the provisions of this sub-section shall have effect as if for the words “fifteen years”, the words “twenty years” had been substituted.’; 40

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the deduction in computing the total income of an undertaking providing telecommunication services, specified in clause (ii) of sub-section (4), shall be hundred per cent. of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent. of such profits and gains for further five assessment years.”; 45

(d) in sub-section (3), for the words “industrial undertaking” wherever they occur, the word “undertaking” shall be substituted with effect from the 1st day of April, 2002; 50

(e) in sub-section (4),—

(i) in clause (i),—

(A) for the words, brackets and figures “of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating”, the words, brackets and figures “of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining” shall be substituted with effect from the 1st day of April, 2002; 55

(B) for sub-clause (b), the following sub-clause shall be substituted with effect from the 1st day of April, 2002, namely:—

5 “(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;”;

(ii) for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2002, namely:—

‘*Explanation*.—For the purposes of this clause, “infrastructure facility” means—

(a) a road including toll road, a bridge or a rail system;

10 (b) a highway project including housing or other activities being an integral part of the highway project;

(c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(d) a port, airport, inland waterway or inland port.’;

15 (iii) for clause (ii), the following clause shall be substituted, namely:—

“(ii) any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services on or after the 1st day of April, 1995, but on or before the 31st day of March, 2003;”;

20 (iv) in clause (iii),—

(A) after the words “an industrial park”, the words “or special economic zone” shall be inserted with effect from the 1st day of April, 2002;

(B) for the words, figures and letters “the 31st day of March, 2002”, the words, figures and letters “the 31st day of March, 2006” shall be substituted;

25 (v) in clause (iv),—

(A) for the words “industrial undertaking” at both the places where they occur, the word “undertaking” shall be substituted with effect from the 1st day of April, 2002;

30 (B) in sub-clauses (a) and (b), for the words, figures and letters “ending on the 31st day of March, 2003” the words, figures and letters “ending on the 31st day of March, 2006” shall be substituted with effect from the 1st day of April, 2002;

(f) in sub-section (7), for the words “industrial undertaking” at both the places where they occur, the word “undertaking” shall be substituted with effect from the 1st day of April, 2002;

(g) in sub-section (8), with effect from the 1st day of April, 2002,—

(i) for the word “goods” wherever it occurs, the words “goods or services” shall be substituted;

35 (ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—For the purposes of this sub-section, “market value”, in relation to any goods or services, means the price that such goods or services would ordinarily fetch in the open market.’;

40 (h) in sub-section (9), for the words “industrial undertaking” at both the places where they occur, the word “undertaking” shall be substituted with effect from the 1st day of April, 2002.

**41.** In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2002,—

Amendment of section 80-IB.

(a) in sub-section (1), for the brackets, figures and word “(3) to (11)”, the brackets, figures, words and letter “(3) to (11) and (11A)” shall be substituted;

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

45 “(11A) The amount of deduction in a case of an undertaking deriving profit from the integrated business of handling, storage and transportation of foodgrains, shall be hundred per cent. of the profits and gains derived from such undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten consecutive assessment years and subject to fulfilment of the condition that it begins to operate such business on or after the 1st day of April, 2001.”;

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(c) in sub-section (14), in clause (c), after sub-clause (iii), the following sub-clause shall be inserted at the end, namely:—

“(iv) in the case of an undertaking engaged in the integrated business of handling, storage and transportation of foodgrains, means the assessment year relevant to the previous year in which the undertaking begins such business.”.

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Amendment  
of section  
80L.

**42.** In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2002,—

(a) in clause (x), for the words “twelve thousand” at both the places where they occur, the words “nine thousand” shall be substituted;

(b) the proviso below clause (x) shall be omitted.

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Amendment  
of section 88.

**43.** In section 88 of the Income-tax Act, with effect from the 1st day of April, 2002,—

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

‘Provided further that an individual shall be entitled to a deduction of an amount equal to thirty per cent. of the aggregate of the sums referred to in sub-section (2) if his income chargeable under the head “Salaries”—

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(a) does not exceed one lakh rupees during the previous year before allowing deduction under section 16; and

(b) is not less than ninety per cent. of his gross total income as defined in sub-section (5) of section 80B.’;

(b) in sub-section (2), in clause (xiii), after the words “Life Insurance Corporation”, the words “or any other insurer” shall be inserted.

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Substitution  
of new  
sections for  
section 92.

**44.** For section 92 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 2002, namely:—

Computation  
of income from  
international  
transaction  
having regard  
to arm's length  
price.

‘92. (1) Any income arising from an international transaction shall be computed having regard to the arm's length price.

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(2) In computing income under sub-section (1), the allowance for any expense or interest shall also be determined having regard to the arm's length price.

(3) Where in an international transaction, two or more associated enterprises enter into a mutual agreement or arrangement for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be.

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Meaning of  
associated  
enterprise.

92A. (1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, “associated enterprise”, in relation to another enterprise, means an enterprise—

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(a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(b) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

40

(2) Two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,—

(a) one enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the other enterprise; or

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(b) any person or enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in each of such enterprises; or

(c) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent. of the book value of the total assets of the other enterprise; or

(d) one enterprise guarantees not less than ten per cent. of the total borrowings of the other enterprise; or

(e) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or

(f) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or

(g) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(h) ninety per cent. or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(i) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(j) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(k) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family, or by a relative of a member of such Hindu undivided family, or jointly by such member and his relative; or

(l) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent. interest in such firm, association of persons or body of individuals; or

(m) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

92B. (1) For the purposes of this section and sections 92, 92C, 92D and 92E, "international transaction" means a transaction between two or more associated enterprises, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses or assets of such enterprises and shall include a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.

Meaning of international transaction.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise shall, for the purposes of sub-section (1), be deemed to be a transaction entered into between two associated enterprises, if there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise.

92C. (1) The arm's length price in relation to an international transaction shall be determined by any of the following methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe, namely:—

Computation of arm's length price.

(a) comparable uncontrolled price method;

(b) resale price method;

(c) cost plus method;

(d) profit split method;

(e) transactional net margin method;

(f) such other method as may be prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be applied, for determination of arm's length price, in the manner as may be prescribed: